THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934

VOLUME 20 NUMBER 230

Washington, Saturday, November 26, 1955

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10645

AMENDMENT OF EXECUTIVE ORDER NO. 9 OF JANUARY 17, 1873, TO PERMIT AN OFFICER OR EMPLOYEE OF THE FEDERAL GOVERNMENT TO HOLD THE OFFICE OF MEMBER OF THE STATE BOARD OF AGRICULTURE OF THE STATE OF MICHIGAN

By virtue of the authority vested in me by section 1753 of the Revised Statutes of the United States (5 U. S. C. 631), and as President of the United States, Executive Order No. 9 of January 17, 1873, as amended, prohibiting, with certain exceptions, Federal officers and employees from holding State, territorial, and municipal offices, is hereby further amended so as to permit any officer or employee of the Federal Government to hold the office of Member of the State Board of Agriculture of the State of Michigan: *Provided*, That the holding of such office shall not in any manner interfere or conflict with the incumbent's performance of his regular duties as an officer or employee of the Federal Government.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
November 22, 1955.

[F. R. Doc. 55-9526; Filed, Nov. 23, 1955; 3:11 p. m.]

EXECUTIVE ORDER 10646

DESIGNATING THE SECRETARY OF DEFENSE TO COORDINATE AND FACILITATE ACTIONS REQUIRED TO DISCHARGE FEDERAL RESPONSIBILITIES UNDER THE FEDERAL VOTING ASSISTANCE ACT OF 1955

By virtue of the authority vested in me by section 201 of the Federal Voting Assistance Act of 1955 (69 Stat. 585) and as President of the United States, it is ordered as follows:

1. The Secretary of Defense is hereby designated as the official to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under the Federal Voting Assistance Act of 1955.

2. In order to effectuate the purposes of the said act, the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this order to any person or persons within the Department of Defense.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
November 22, 1955.

[F. R. Doc. 55-9527; Filed, Nov. 23, 1955; 3:11 p. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS

(INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR GRADES OF DRIED FIGS[1]

On October 4, 1955, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 7373) regarding a proposed revision of the United States Standards for Grades of Dried Figs (§§ 52.1021–52.1035).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Dried Figs are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.)

The proposed revision of the United States Standards for Grades of Dried Figs which were contained in the aforesaid notice are hereby adopted in the form in which such standards appeared in said notice and are hereby incorporated herein as set forth below except for minor editorial changes appearing in the citations of authority, §§ 52.1024, 52.1025, 52.1026, 52.1030, and 52.1032, and Table IIB.

[1] Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

(Continued on p. 8683)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

The United States Standards for Grades of Dried Figs (which is the third issue) contained in this subpart shall become effective 30 days after the date of publication hereof in the FEDERAL REGISTER and thereupon will supersede the United States Standards for Grades of Dried Figs (§§ 52.1021–52.1035) which have been in effect since August 29, 1949.

Dated: November 22, 1955.

[SEAL] ROY W LENNARTSON,
Deputy Administrator
Marketing Services.

PRODUCT DESCRIPTION, COLOR TYPES, STYLES, SIZES, GRADES

AUTHORITY: §§ 52.1021 to 52.1033 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

PRODUCT DESCRIPTION, COLOR TYPES, STYLES, SIZES, GRADES

§ 52.1021 *Product description.* Dried figs are the fruit of the fig tree (Ficus carica) from which the greater portion of moisture has been removed. The dried figs are prepared from clean and sound fruit and are sorted and thoroughly cleaned to assure a clean, sound, wholesome product. The figs may or may not be sulphured or otherwise bleached.

§ 52.1022 *Color types of dried figs*—(a) *"White."* "White figs" (or "white type" figs) are white to dark brown in color and include such varieties as Adriatic, Calimyrna, and Kadota.

(b) *"Black."* "Black figs" (or "black type" figs) are black or dark purple in color as in the Mission varieties.

§ 52.1023 *Styles and types of packs of dried figs*—(a) *Style I, Whole.* "Style I, Whole" (or "whole figs") means dried figs in any of the following types of packs:

(1) "Whole, loose, figs", referred to as Style I (a), are whole dried figs, not materially changed from their original dried form, that are packed without special arrangement in a container.

(2) "Whole, pulled, figs", referred to as Style I (b) are whole dried figs which are changed from their original dried form by purposely flattening and shaping and are placed in a definite arrangement in a container. The dried figs may or may not be split slightly across the eye but are not split to the extent that the seed cavity is materially exposed.

(3) "Whole, layered, figs", referred to as Style I (c) are whole dried figs which are changed from their original dried form by purposely flattening and shaping and are placed in a staggered-layer arrangement in a container. The figs are split across the base to the extent that the seed cavity may be materially exposed.

(b) *Style II, Sliced.* "Style II, Sliced" (or "sliced figs") means dried whole figs that have been cut into slices not less than ¼ inch in thickness and such slices are not recut showing more than two cut surfaces.

§ 52.1024 *Sizes of Style I (a), whole, loose, dried figs*—(a) *Sizes.* The sizes of Style I (a) whole, loose, dried figs for the respective varieties are as follows:

Adriatic or Kadota

No. 1 size (jumbo size)—1$^{9}/_{16}$ inches or larger in width.
No. 2 size (extra fancy size)—1$^{5}/_{16}$ inches to, but not including, 1$^{9}/_{16}$ inches in width.
No. 3 size (fancy size)—1$^{1}/_{16}$ inches to, but not including, 1$^{5}/_{16}$ inches in width.
No. 4 size (extra choice size)—$^{13}/_{16}$ inch to, but not including, 1$^{1}/_{16}$ inches in width.
No. 5 size (choice size)—$^{11}/_{16}$ inch to, but not including, $^{13}/_{16}$ inch in width.
No. 6 size (standard size)—Less than $^{11}/_{16}$ inch in width.

Calimyrna

No. 1 size (jumbo size)—1$^{9}/_{16}$ inches or larger in width.
No. 2 size (extra fancy size)—1$^{5}/_{16}$ inches to, but not including, 1$^{9}/_{16}$ inches in width.
No. 3 size (fancy size)—1$^{1}/_{16}$ inches to, but not including, 1$^{5}/_{16}$ inches in width.
No. 4 size (extra choice size)—1$^{1}/_{16}$ inches to, but not including, 1$^{5}/_{16}$ inches in width.
No. 5 size (choice size)—$^{13}/_{16}$ inch to, but not including, 1$^{1}/_{16}$ inches in width.
No. 6 size (standard size)—Less than $^{13}/_{16}$ inch in width.

Black Mission

No. 1 size (jumbo size)—1$^{5}/_{16}$ inches or larger in width.
No. 2 size (extra fancy size)—1$^{1}/_{16}$ inches to, but not including, 1$^{5}/_{16}$ inches in width.
No. 3 size (fancy size)—1$^{1}/_{16}$ inches to, but not including, 1$^{1}/_{16}$ inches in width.
No. 4 size (extra choice size)—$^{15}/_{16}$ inch to, but not including, 1$^{1}/_{16}$ inches in width.
No. 5 size (choice size)—$^{13}/_{16}$ inch to, but not including, $^{15}/_{16}$ inch in width.
No. 6 size (standard size)—Less than $^{13}/_{16}$ inch in width.

(b) *Ascertaining compliance for a single size.* In ascertaining compliance with the size requirements of this section, Style I (a) whole, loose, dried figs will be considered as a single size if not less than 80 percent by count of the figs are of one predominant size and not more than 14 percent by count of the figs are of a size or sizes smaller than that predominating size and not more than 6 percent by count of the figs are of a size or sizes larger than that predominating size. "Uniformity of size" as such, is not a grade requirement for Style I (a) whole, loose, dried figs.

§ 52.1025 *Grades of dried figs.* (a) "U. S. Grade A" or "U. S. Fancy" is the quality of whole or sliced dried figs in which Style I, whole figs, are of one variety and in which Style II, sliced figs, are of one variety or similar varieties; that are well-matured with not more than 5 percent, by count, of reasonably well-matured dried figs; that are practically uniform in size, except for Style I (a) whole, loose, figs and Style II, sliced figs; that possess a practically uniform typical color; that possess a good flavor; that are free from foreign material; and that do not exceed the maximum allowances and limitations as specified in Table I (Moisture) and Table IIA (Defects in White Figs) and Table IIB (Defects in Black Figs).

(b) "U. S. Grade B" or "U. S. Choice" is the quality of whole or sliced dried figs in which Style I, whole figs, are of one variety and in which Style II, sliced figs, are of one variety or similar varieties; that are reasonably well-matured with not more than 10 percent, by count, of fairly well-matured dried figs; that are reasonably uniform in size, except for Style I (a) whole, loose, figs and Style II, sliced figs; that possess a reasonably uniform typical color; that possess a reasonably good flavor; that are free from foreign material; and that do not exceed the maximum allowances and limitations as specified in Table I (Moisture) and Table IIIA (Defects in White Figs) and Table IIIB (Defects in Black Figs).

(c) "U. S. Grade C" or "U. S. Standard" is the quality of whole or sliced dried figs that are of one variety or of similar varieties; that are fairly well-matured with not more than 10 percent, by count, of figs that fail to meet the requirements for fairly well-matured dried figs; that are fairly uniform in size, except for Style I (a), whole, loose, figs and Style II, sliced figs; that possess a fairly uniform typical color; that possess a typical and normal flavor; that are free from foreign material; and that do not exceed the maximum allowances and limitations as specified in Table I (Moisture) and Table IVA (Defects in White

Figs) and Table IVB (Defects in Black Figs)

(d) 'Substandard" is the quality of dried figs that fail to meet the requirements of 'U S Grade C' or 'U S Standard'

MOISTURE ALLOWANCES

§ 52 1026 *Moisture allowances for grades of dried figs*—(a) *Moisture limits* Dried figs shall not exceed the moisture limits for the grades color types, styles and groups designated in Table I of this section Group I includes figs in containers which do not completely enclose and seal the figs; such containers include but are not limited to, wood boxes or fiber boxes Group II includes figs packaged in completely sealed packages; such containers include, but are not limited to cellophane pliofilm metal-foil wrapped bags or cartons, and hermetically-sealed glass or metal containers

TABLE I—MOISTURE ALLOWANCES FOR DRIED FIGS

Grades	Color types	Styles	Maximum moisture limits (by weight)	
			Group I	Group II
			Percent	*Percent*
U. S. Grade A or U. S. Fancy and U S Grade B or U. S. Choice and U S Grade C or U S Standard	White	Whole	24	30
	White	Sliced	23	--
	Black	Whole	23	30
	Black	Sliced	23	--
	Black and White (mixed)	Whole	23	30
	Black and White (mixed)	Sliced	23	

(b) *Ascertaining compliance with moisture limits* In ascertaining compliance with the moisture limits in Table I of this section, some of the samples which represent a specific lot of dried figs may possess no more than 1 percent additional moisture, if the average moisture for all samples representing the lot is within the limits stated in Table I of this section

DEFECT ALLOWANCES

§ 52 1027 *Allowances for defects in dried figs* The following tables in this section summarize the total maximum allowances and maximum limitations within the total allowances for the respective grades and styles as follows:

(a) U S Grade A or U S Fancy; Styles I and II:

Table II A—White figs
Table II B—Black figs

(b) U S. Grade B or U S Choice; Styles I and II:

Table III A—White figs
Table IIIB—Black figs

(c) U S Grade C or U S Standard; Styles I and II:

Table IV A—White figs
Table IV B—Black figs

TABLE II A—ALLOWANCES FOR DEFECTS IN WHITE FIGS

(Style I Whole; Style II Sliced except as indicated otherwise)

Grade	Total allowance [1]—Not more than a total of 5 percent [2]	Limited allowance—Not more than 3/5 of the total or 3 percent [2]
U. S. Grade A or U S Fancy.	Damaged by: scars or disease, sunburn, mechanical injury [3] visible sugaring other similar defects. Seriously damaged by: scars or disease, sunburn, mechanical injury [3] other similar defects	Seriously damaged by: scars or disease, sunburn, mechanical injury [3] other similar defects

[1] Total maximum allowances: *Provided*, that the appearance or edibility of the product is not more than slightly affected by such defects or by the presence of otherwise defective units
[2] Percentages are by count.
[3] Not applicable to Style II, Sliced figs

TABLE II B—ALLOWANCES FOR DEFECTS IN BLACK FIGS

(Style I Whole; Style II Sliced except as indicated otherwise)

Grade	Total allowance [1]—Not more than a total of 10 percent [2]	Limited allowance—Not more than 1/2 of the total or 5 percent [2]
U. S. Grade A or U S Fancy	Damaged by: scars or disease, sunburn, mechanical injury [3] visible sugaring other similar defects. Seriously damaged by: scars or disease, sun burn, mechanical injury [3] other similar defects	Seriously damaged by: scars or disease, sunburn, mechanical injury,[3] other similar defects

[1] Total maximum allowances: *Provided* that the appearance or edibility of the product is not more than slightly affected by such defects or by the presence of otherwise defective units.
[2] Percentages are by count.
[3] Not applicable to Style II Sliced figs

TABLE III A—ALLOWANCES FOR DEFECTS IN WHITE FIGS

(Style I Whole; Style II Sliced except as indicated otherwise)

Grade	Total allowance [1]—Not more than a total of 10 percent [2]	Limited allowance—Not more than 1/2 of the total or 5 percent
U S Grade B or U S Choice	Damaged by: scars or disease, sunburn, mechanical injury,[3] visible sugaring other similar defects. Seriously damaged by: scars or disease, sun burn, mechanical injury [3] other similar defects	Seriously damaged by: scars or disease, sunburn, mechanical injury [3] other similar defects

TABLE III B—ALLOWANCES FOR DEFECTS IN BLACK FIGS

(Style I Whole; Style II Sliced except as indicated otherwise)

Grade	Total allowance [1]—Not more than a total of 15 percent [2]	Limited allowance—Not more than 7/15 of the total or 7 percent [2]
U. S. Grade B or U S Choice	Damaged by: scars or disease, sunburn, mechanical injury [3] visible sugaring other similar defects. Seriously damaged by: scars or disease, sun burn, mechanical injury [3] other similar defects	Seriously damaged by: scars or disease sunburn, mechanical injury [3] other similar defects

[1] Total maximum allowances: *Provided*, That the appearance or edibility of the product is not materially affected by such defects or by the presence of otherwise defective units
[2] Percentages are by count.
[3] Not applicable to Style II Sliced figs

TABLE IV A—ALLOWANCES FOR DEFECTS IN WHITE FIGS

(Style I, Whole; Style II Sliced except as indicated otherwise)

Grade	Total allowance [1]—Not more than a total of 15 percent [2]	Limited allowance—Not more than 7/15 of the total or 7 percent [2]
U. S. Grade C or U S Standard.	Damaged by: scars or disease; sunburn; mechanical injury;[3] visible sugaring; other similar defects. Seriously damaged by: scars or disease; sun burn; mechanical injury [3] other similar defects	Seriously damaged by: scars or disease; sunburn, mechanical injury [3] other similar defects

TABLE IV B—ALLOWANCES FOR DEFECTS IN BLACK FIGS

(Style I, Whole, Style II, Sliced except as indicated otherwise)

Grade	Total allowance [1]—Not more than a total of 20 percent [2]	Limited allowance—Not more than ⅗ of the total or 8 percent [2]
U. S. Grade C or U. S. Standard.	Damaged by: scars or disease, sunburn, mechanical injury,[3] visible sugaring, other similar defects.	
	Seriously damaged by: scars or disease, sunburn, mechanical injury,[3] other similar defects.	Seriously damaged by: scars or disease, sunburn, mechanical injury,[3] other similar defects.

[1] Total maximum allowances: *Provided*, That the appearance or edibility of the product is not seriously affected by such defects or by the presence of otherwise defective units.
[2] Percentages are by count.
[3] Not applicable to Style II, Sliced figs.

DEFINITIONS AND EXPLANATIONS OF TERMS

§ 52.1028 *Stages of maturity*—(a) *Well matured.* A "well-matured" dried fig means a dried fig which is well developed and in which the interior shows very good sugary tissue development that is sirupy and gumlike in consistency and texture.

(b) *Reasonably well matured.* A "reasonably well-matured" dried fig means a dried fig which is reasonably well developed and in which (1) the interior shows good sugary tissue development that is gummy but slightly fibrous in consistency and texture, or (2) one-third or less of the interior of the fig may be entirely lacking in sugary tissue, if the remainder of the interior of the fig is sirupy and gumlike in consistency and texture.

(c) *Fairly well matured.* A "fairly well-matured" dried fig means a dried fig which is fairly well developed and in which (1) the sugary tissue in the interior of the fig is gummy and fibrous in consistency and texture, or (2) one-third or less of the interior of the fig may be entirely lacking in sugary tissue, if the remainder of the interior of the fig is gummy but slightly fibrous in consistency and texture, or (3) more than one-third, but less than one-half, of the interior of the fig may be entirely lacking in sugary tissue, if the remainder of the interior of the fig is sirupy and gumlike in consistency and texture.

§ 52.1029 *Degrees of uniformity of size.* Uniformity of size applies to Style I (b) whole, pulled, figs and Style I (c) whole, layered, figs, where the original shape has been materially changed.

(a) *Practically uniform in size.* "Practically uniform in size" means that not more than a total of 10 percent, by count, of dried figs may be conspicuously larger or smaller than the approximate average size of the dried figs in the container.

(b) *Reasonably uniform in size.* "Reasonably uniform in size" means that not more than a total of 15 percent, by count, of dried figs may be conspicuously larger or smaller than the approximate average size of the dried figs in the container.

(c) *Fairly uniform in size.* "Fairly uniform in size" means that not more than a total of 20 percent, by count, of dried figs may be conspicuously larger or smaller than the approximate average size of the dried figs in the container.

§ 52.1030 *Degrees of uniformity of color*—(a) *White figs*—(1) *Practically uniform typical color.* "Practically uniform typical color" means, with respect to white varieties of dried figs that are light in color, that there may be not more than 5 percent, by count, of dried figs that are markedly dark figs; and, with respect to white varieties that are dark in color, that there may be not more than 5 percent, by count, of dried figs that are markedly light-colored figs.

(2) *Reasonably uniform typical color.* "Reasonably uniform typical color" means, with respect to white varieties of dried figs that are light in color, that there may be not more than 10 percent, by count, of dried figs that are markedly dark figs; and, with respect to white varieties that are dark in color, that there may be not more than 10 percent, by count, of dried figs that are markedly light-colored figs.

(3) *Fairly uniform typical color.* "Fairly uniform typical color" means, with respect to white varieties of dried figs that are light in color or are very light green in color, that there may be not more than 20 percent, by count, of dried figs that are markedly dark figs; and, with respect to white varieties that are dark in color, that there may be not more than 20 percent, by count, of dried figs that are markedly light-colored figs.

(b) *Black figs*—(1) *Practically uniform typical color.* "Practically uniform typical color" means, with respect to Black varieties of dried figs, that the color is practically uniform and a typical natural black or dark reddish-brown color of dried figs and that not more than 10 percent, by count, of the dried figs may be, singly or in combination:

(i) Affected by very light-colored scars which are not calloused and which, singly or in the aggregate on a whole dried fig, are more than one-eighth but less than one-half of the exterior surface of the dried fig; or

(ii) Seriously damaged by scars or disease (as defined in § 52.1031 (b)) which affect the color of the dried fig.

(2) *Reasonably uniform typical color.* "Reasonably uniform typical color" means, with respect to Black varieties of dried figs, that the color is reasonably uniform and a typical natural black or dark reddish-brown color of dried figs and that not more than 20 percent, by count, of the dried figs may be, singly or in combination:

(i) Affected by very light-colored scars which are not calloused and which, singly or in the aggregate on a whole dried fig, are more than one-fourth but less than one-half of the exterior surface of the dried fig; or

(ii) Seriously damaged by scars or disease (as defined in § 52.1031 (b)) which affect the color of the dried fig.

(3) *Fairly uniform typical color.* "Fairly uniform typical color" means, with respect to Black varieties of dried figs, that the color is fairly uniform and a typical natural black or dark reddish-brown color of dried figs and that not more than 30 percent, by count, of the dried figs may be, singly or in combination:

(i) Affected by very light-colored scars which are not calloused and which, singly or in the aggregate on a whole dried fig, are more than one-fourth but less than one-half of the exterior surface of the dried fig; or

(ii) Seriously damaged by scars or disease (as defined in § 52.1031 (b)) which affect the color of the dried fig.

§ 52.1031 *Definitions of defects*—(a) *Damaged by scars or disease.* "Damaged by scars or disease" means that the area of tough or calloused scars, singly or in the aggregate on a dried fig or portion of a dried fig, is equal to, or exceeds, the area of a circle ⅜ inch in diameter but is less than the area of a circle ½ inch in diameter.

(b) *Seriously damaged by scars or disease.* "Seriously damaged by scars or disease" means that the area of tough or calloused scars, singly or in the aggregate on a dried fig or portion of a dried fig, is equal to, or exceeds, the area of a circle ½ inch in diameter. Figs which possess very light-colored scars that are not calloused are considered as "seriously damaged by scars" if such scars, singly or in the aggregate on a whole dried fig, are equal to one-half or more of the exterior surface of the dried fig.

(c) *Damaged by sunburn.* "Damaged by sunburn" means any substantial damage from excessive heat to the skin evidenced by dry and tough surface areas.

(d) *Seriously damaged by sunburn.* "Seriously damaged by sunburn" means any substantial damage from excessive heat to the skin evidenced by dry and tough surface areas and which damage is accompanied by a lack of sugary tissue affecting one-third or more of the interior of a dried fig.

(e) *Damaged by mechanical injury.* "Damaged by mechanical injury" in Styles I (a), (b), and (c)—whole loose, whole pulled, and whole layered—dried figs means skin breaks that more than slightly affect the appearance of the product.

(f) *Seriously damaged by mechanical injury.* "Seriously damaged by mechanical injury" means injury to the styles of whole dried figs as follows: (1) In Style I (a), Whole, loose, figs and Style I (b), Whole, pulled, figs, the seed tissue is mashed out beyond the outer wall or there are excessive skin breaks which affect materially the appearance of the dried figs for the applicable style; (2) in Style I (c), Whole, layered, figs, there are excessive skin breaks (other than the normal splitting for the style) to the extent that a dried fig cannot be identified as a whole, layered, fig.

(g) *Damaged by visible sugaring.* "Damaged by visible sugaring" means white sugar crystals which form on the

exterior surface of a dried fig or portion of a dried fig so as to damage materially the appearance. Units showing a few lightly sugared spots are not considered as "Damaged by visible sugaring" unless singly or in combination with other defective units they affect the appearance or edibility, or both, for the respective grade.

(h) *Damaged by other similar defects.* "Damaged by other similar defects" includes any exposed (external or cut surface) injury or defect not specifically mentioned (such as abnormally discolored areas other than from scars, disease, or sunburn) which more than slightly affects the appearance, edibility, or keeping quality of the dried figs, except that stems which attach the fig to the twig of the tree are not considered as "damage by other similar defects."

(i) *Seriously damaged by other similar defects.* "Seriously damaged by other similar defects" includes any exposed (external or cut surface) injury or defect not specifically mentioned (such as abnormally discolored areas other than from scars, disease, or sunburn) which affects materially the appearance, edibility, or keeping quality of the dried figs, except that stems which attach the fig to the twig of the tree are not considered as "seriously damaged by other similar defects."

§ 52.1032 *Degrees of flavor and odor—*

(a) *Good flavor* "Good flavor" means a clean and distinct dried fig flavor and odor free from any flavors or odors such as are characteristic of scorching or caramelization and free from other slight abnormal flavors or odors.

(b) *Reasonably good flavor* "Reasonably good flavor" means a clean and distinct dried fig flavor and odor which may possess very slight flavors or odors such as are characteristic of slight scorching or slight caramelization or may possess other very slight abnormal flavors or odors.

(c) *Typical and normal flavor* "Typical and normal flavor" means a clean and distinct dried fig flavor and odor which may possess slight flavors or odors such as are characteristic of scorching or caramelization but may not possess any flavor in amounts resulting in objectionable or off flavors.

WORK SHEET

§ 52.1033 *Work sheet for grades of dried figs.*

Size and kind of container ----------
Container mark or identification ----------
Label or brand ----------
Net weight ----------
Color type ( ) White ( ) Black ----------
Style (type of pack) ----------
Size or sizes (whole, loose, figs): ____% Size ____, ____% Size ____, ____% Size ____ ----------
Moisture content ----------%
Varietal characteristics: Similar ____ Mixed ____ ----------
Uniformity of color: ----------
White: Marked variation from Light ____ Dark ----------%
Black: ____ Uniform; Natural Black ----------
Very light scars (uncalloused, etc.) ----------%
Uniformity of size: (Whole, pulled, and layered). Conspicuously larger ____; smaller ____ ----------%
Maturity and development: ----------
(A) Well-matured ----------%
(B) Reasonably well-matured ----------%
(C) Fairly well-matured ----------%
Flavor and odor: (A), (B), (C) ----------
Count (per sample) ----------

Defects	White figs			Black figs			
	A	B	C	A	B	C	
Seriously damaged by: scars or disease; sunburn, mechanical injury,[1] other similar defects	3%	5%	7%	5%	7%	8%	____%
Subtotal above defects							%
Damaged by: scars or disease, sunburn, mechanical injury,[1] other similar defects							____%
Grand total all defects	5%	10%	15%	10%	15%	20%	____%

U. S. Grade (including all factors) ----------

[1] "Damaged or seriously damaged by mechanical injury" is not applicable to any grade of Style II, sliced figs.

[F R. Doc. 55-9498; Filed, Nov. 25, 1955; 8:50 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 62]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 914.362 *Navel Orange Regulation 62—*(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914, 19 F R. 2941) regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Navel Orange Administrative Committee held an open meeting on November 23, 1955, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order* (1) The quantity of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., November 27, 1955, and ending at 12:01 a. m., P. s. t., December 4, 1955, is hereby fixed as follows:

(i) District 1. 646,800 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement;

(iv) District 4. Unlimited movement.

(2) Navel oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," and "District 4" have the same meaning as when used in said amended marketing agreement and order, and "carton" means the standard one-half orange, grapefruit, or lemon box set forth as standard container number 58 in section 828.83, as amended, of the Agricultural Code of California.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: November 25, 1955.

[SEAL] G. R. GRANGE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-9558; Filed, Nov. 25, 1955; 11:28 a. m.]

[Lemon Regulation 617]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.724 *Lemon Regulation 617*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 20 F. R. 2913) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on November 22, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., November 27, 1955, and ending at 12:01 a. m., P. s. t., December 4, 1955, is hereby fixed as follows:

(i) District 1. Unlimited movement;
(ii) District 2: 162,750 cartons;
(iii) District 3: 18,600 cartons.

(2) As used in this section, "handled," "District 1," "District 2," and "District 3" have the same meaning as when used in the said amended marketing agreement and order; and "carton" means the standard one-half orange, grapefruit or lemon box set forth as standard container number 58 in section 828.83, as amended, of the Agricultural Code of California.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: November 23, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-9539; Filed, Nov. 25, 1955; 9:01 a. m.]

[958.319 Amdt. 2]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

Findings. (a) Pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the area committee for Area No. 3, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this amendment, (iii) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) reasonable time is permitted, under the circumstances for such preparation, (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area, and (vi) this amendment relieves restrictions on the handling of Irish potatoes grown in Area No. 3.

Order as amended. The provisions of § 958.319 (b) (1) (FEDERAL REGISTER, July 20 and August 12, 1955; 20 F. R. 5155, 5848) are hereby amended to read as follows:

(b) *Order.* (1) During the period, from November 29, 1955, to May 31, 1956, both dates inclusive, no handler shall ship any potatoes (i) of the long varieties (including, but not limited to, White Rose and Russet Burbank) unless such potatoes are of a size not smaller than 2 inches minimum diameter or 4 ounces minimum weight, and meet the requirements of U. S. No. 2, or better grade; and (ii) of the round varieties (including, but not limited to, Irish Cobbler, Katahdin, Kennebec, Bliss Triumph and Pontiac) unless such potatoes are of a size not smaller than 2¼ inches minimum diameter, and meet the requirements of the U. S. No. 2, or better grade, except that such potatoes must be fairly well shaped, free from damage caused by second growth, growth cracks, sunburn, and cuts, free from surface scab which covers an area of more than 25 percent of the surface of the potato in the aggregate, and free from pitted scab which affects the appearance of the potato to a greater extent than the amount of the surface scab permitted: *Provided,* That an additional tolerance of five percent shall be allowed for potatoes which do not meet the above specified marketing limitations for shape and scab, and damage from second growth, growth cracks, sunburn, and cuts, but such potatoes must meet the requirements of the U. S. No. 2 grade, as such terms, grades, and sizes are set forth in the United States Standards for Potatoes (§§51.1540 to 51.1559 of this title) including the tolerances set forth therein."

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c).

Done at Washington, D. C., this 23d day of November 1955, to become effective November 29, 1955.

[SEAL] S. R. SMITH,
Director
Fruit and Vegetable Division.

[F. R. Doc. 55-9540; Filed, Nov. 25, 1955; 9:01 a. m.]

[Avocado Order 11, Amdt. 1]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

MATURITY REGULATION

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969; 20 F R, 4177) regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 68 Stat. 906, 1047), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 28, 1955. A reasonable determination as to the time of maturity of avocados must await the development of the crop thereof, and adequate information thereon was not available to the Avocado Administrative Committee until November 22, 1955; determination as to the time of maturity of the varieties of avocados covered by this section were made at a telephone meeting of said committee on November 22, 1955, after consideration of all available information relative to such maturity and growing conditions prevailing during the current season for such avocados, at which time the recommendations and supporting information for the amendment to the maturity regulation was submitted to the Department; such telephone meeting was held to consider recommendation for such amended regulation; the provisions of this section are identical with the aforesaid recommendations of the committee and information concerning such provisions has been disseminated among the handlers of avocados; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) It is, therefore, ordered as follows: Effective as of 12:01 a. m., e. s. t., November 28, 1955, the provisions of paragraph (b) of § 969.311 (Avocado Order 11, 20 F R. 8328) including the table forming a part of such section, are amended by removing from coverage thereunder the Hickson and Taylor varieties of avocados and, in lieu of such coverage of such varieties, the following restrictions shall apply to them:

(1) During the period from 12:01 a. m., e. s. t., November 28, 1955, to 12:01 a. m., e. s. t., December 5, 1955, no handler shall handle any Hickson variety of avocados unless the individual fruit weighs at least 8 ounces or measures at least $2\frac{12}{16}$ inches in diameter: *Provided,* That up to 10 percent, by count, of the individual fruit in each lot may weigh less than 8 ounces and measure less than $2\frac{12}{16}$ inches in diameter, but no such avocados may weigh less than 6 ounces. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot;

(2) During the period from 12:01 a. m., e. s. t., November 28, 1955, to 12:01 a. m., e. s. t., December 12, 1955, no handler shall handle any Taylor variety of avocados unless the individual fruit weighs at least 12 ounces or measures at least $3\frac{2}{16}$ inches in diameter: *Provided,* That up to 10 percent, by count, of the individual fruit in each lot may weigh less than 12 ounces and measure less than $3\frac{2}{16}$ inches in diameter, but no such avocados may weigh less than 10 ounces. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot;

(3) During the period from 12:01 a. m., e. s. t., December 12, 1955, to 12:01 a. m., e. s. t., January 2, 1956, no handler shall handle any Taylor variety of avocados grown in District 1 unless the individual fruit weighs at least 9 ounces or measures at least $2\frac{13}{16}$ inches in diameter: *Provided,* That up to 10 percent, by count, of the individual fruit in each lot may weigh less than 9 ounces and measure less than $2\frac{13}{16}$ inches in diameter, but no such avocados may weigh less than 7 ounces. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot;

(4) During the period 12:01 a. m., e. s. t., December 12, 1955, to 12:01 a. m., e. s. t., January 2, 1956, no handler shall handle any Taylor variety of avocados grown in District 2 unless the individual fruit weighs at least 7 ounces or measures at least $2\frac{1}{16}$ inches in diameter; *Provided,* That up to 10 percent, by count, of the individual fruit in each lot may weigh less than 7 ounces and measure less than $2\frac{1}{16}$ inches in diameter, but no such avocados may weigh less than 5 ounces. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot;

(5) The provisions of subparagraphs (b) (2) and (b) (3) of Avocado Order 6 (§ 969.306; 20 F R. 3427) shall not apply to the Hickson and Taylor varieties of avocados.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: November 23, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-9522; Filed, Nov. 25, 1955; 9:01 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Revised, Amdt. 65]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—VESICULAR EXANTHEMA

TEMPORARY SUSPENSION OF CERTAIN CLEANING AND DISINFECTING REQUIREMENTS

Pursuant to sections 1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111–113, 120), and section 3 of the act of March 3, 1905, as amended (21 U. S. C. 125), the provisions of paragraphs (b) and (c) of § 76.35, as amended, Subpart B, Part 76, Title 9, Code of Federal Regulations, are hereby suspended until October 15, 1956, unless the suspension is rescinded prior to that date.

Such provisions require the cleaning and disinfecting of certain vehicles and feed, water, and rest facilities used in connection with the interstate movement of swine. In view of the favorable situation existing for some time with respect to vesicular exanthema with no outbreaks of the disease in most sections of the country, and in view of the provisions of paragraph (a) of § 76.35, which require that vehicles and other facilities used in connection with the interstate movement of swine shall be kept clean and of paragraph (d) of § 76.35, which authorize the Chief of the Animal Disease Eradication Branch, Agricultural Research Service, to require the cleaning and disinfecting of any vehicle or facility used in connection with the interstate movement of swine affected with or exposed to vesicular exanthema or swine fed any raw garbage, it appears that the requirements of said paragraphs (b) and (c) may be suspended without endangering the swine of the country, provided the requirements under the other provisions of § 76.35 are complied with and the present favorable situation with respect to vesicular exanthema continues.

The amendment relieves certain restrictions presently imposed, and should be made effective immediately in order to be of maximum benefit to affected persons. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amndment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective upon issuance.

(Secs. 4, 5, 23 Stat. 32, as amended, sec. 2, 32 Stat. 792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 120, 111, 123, 125)

Done at Washington, D C this 21st day of November 1955

[SEAL] M R. CLARKSON,
Acting Administrator,
Agricultural Research Service

[F R Doc 55-9501; Filed, Nov 25, 1955; 8:50 a m]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt 24 to Revision of May 10, 1949]

PART 550—FEDERAL AID TO PUBLIC AGENCIES FOR DEVELOPMENTS OF PUBLIC AIRPORTS

PROJECT COSTS

Acting pursuant to the authority vested in me by the Federal Airport Act, I hereby amend Part 550 of the regulations of the Civil Aeronautics Administration as follows:

Section 550 4 (c) (1) is hereby amended to read as follows:

§ 550.4 *Project costs* * * *

(c) *United States share of project costs* * * *

(1) *Project costs other than costs of installation of high intensity lighting on runways designated instrument landing runways* The United States share of the project costs (other than costs of installation of high intensity lighting on runways designated instrument landing runways) of an approved project for the development of an airport, regardless of the size or location of the airport to be developed, shall be 50 percent of the allowable project costs of the project (other than costs of installation of high intensity lighting on runways designated instrument landing runways), except that this share, in the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein shall be increased as provided in section 10 (b) of the act and except that the United States share shall be 75 percent in the case of the Territory of Alaska and the Virgin Islands, all as set forth in the following table:

UNITED STATES PERCENTAGE SHARE OF ALLOWABLE PROJECT COSTS IN STATES CONTAINING UNAPPROPRIATED AND UNRESERVED PUBLIC LANDS AND NONTAXABLE INDIAN LANDS

Arizona	60 99	New Mexico	56 46
California	54 19	Oregon	55 98
Colorado	53 25	South Dakota	52 99
Idaho	55 72	Utah	62 38
Montana	53 31	Washington	51 74
Nevada	62 50	Wyoming	57 17

NOTE: The percentages listed in this table will vary as changes occur with respect to the area of unappropriated and unreserved public lands and nontaxable Indian lands in the several States, in which event such changed percentages will be used by the Administrator in determining the United States share of allowable project costs other than costs of installing high intensity runway lighting on runways designated as instrument landing runways

(Secs. 1-15, 60 Stat 170-178 as amended; 49 U S C 1101-1114)

This amendment shall become effective upon publication in the FEDERAL REGISTER

[SEAL] F B LEE
Administrator of Civil Aeronautics

[F R Doc 55-9464; Filed Nov 25, 1955; 8:45 a. m.]

[Amdt 172]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

PROCEDURE ALTERATIONS

The standard instrument approach procedure alterations appearing hereinafter are adopted to become effective when indicated in order to promote safety. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required

Part 609 is amended as follows:

NOTE: Where the general classification (LFR, VAR, ADF, ILS, GCA, or VOR), location and procedure number (if any) of any procedure in the amendments which follow, are identical with an existing procedure, that procedure is to be substituted for the existing one, as of the effective date given, to the extent that it differs from the existing procedure; where a procedure is canceled the existing procedure is revoked; new procedures are to be placed in appropriate alphabetical sequence within the section amended.

1 The low frequency range procedures prescribed in § 609 6 are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If an LFR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below

City and State; airport name, elevation; facility; class and identification; procedure No; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft: 75 m. p. h or less	Type aircraft: More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
ABILENE, TEX Municipal, 1,778' SBRAZ-ABI Procedure No. 1 Amendment 2. Effective date: December 24, 1955. Supersedes Amendment 1, July 2, 1955. Major changes: Raise procedure turn altitude and reverse direction. Change airport name from New Abilene	Abilene VOR	031—11	3,100	E side N course: 001° outbound 181° inbound. 3,100' within 10 miles •	2,400	171—3.2	2 engines or less			Within 3 2 miles, climb to 3,600' on S course within 25 miles. CAUTION: 2,778' mean sea level radio tower 10 miles S of airport. •Procedure turn nonstandard due ATC.
	Phantom Hill Intersection (final)	181—10	2,400				T-dn	300-1	300-1	
							C-dn	400-1	500-1	
							S-dn 17	400-1	400-1	
							A-dn	800-2	800-2	
							More than 2 engines			
							T-dn	-- --	200-½	
							C-dn	-- --	500-1½	
							S-dn 17	--	400-1	
							A-dn		800-2	

2 The very high frequency omnirange procedures prescribed in § 609 9 (a) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL Ceilings are in feet above airport elevation.
If a VOR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport Initial approaches shall be made over specified routes Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below

City and State; airport name, elevation; facility: class and identification; procedure No; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft: 75 m.p.h or less	Type aircraft: More than 75 m.p.h	
1	2	3	4	5	6	7	8	9	10	11
ABILENE, TEX. Municipal, 1,778' BVOR-ABI. Procedure No. 1 Amendment 2 Effective date: December 24 1955. Supersedes Amendment 1, July 2, 1955. Major changes: Raise procedure turn altitude	Abilene LFR	262—11	3 100	S side of course: 281° outbound 101 inbound. 3 500' within 10 miles	2, 600	101—10 9	2 engines or less T-dn C-d C-n A-dn More than 2 engines T-dn C-d C-n A-dn	 300-1 800-1 800-2 1, 000-2 	 300-1 800-1 800-2 1, 000-2 200-½ 800-1½ 800-2 1, 000-2	Within 10.9 miles, climb to 3,100' on radial 101° within 25 miles
BUTTE, MONT Butte, 5,554'. Whitehall-BVOR HIA and Homestake FM Procedure No. 2 Amendment No. 2. Effective date: December 24, 1955. Supersedes Amendment 1, dated May 7, 1955. Major changes: Correct identification; change columns 3, 5, 7 from 273° to 268°; change column 11 from 273° to 270° radial. Final approach course passes to S of airport for better terrain clearance	Whitehall VOR	268—13 0	9 500	No procedure turn. Final approach course 268°	Homestake FM 9 500	268—4 1	2 engines or less T-d T-n C-d C-n A-dn More than 2 engines T-d T-n C-d C-n A-dn	 1 500-1 1 500-2 3 000-1 3 000-2 3, 000-2 	 1 500-1 1 500-2 3 000-1 3 000-2 3, 000-2 1, 500-1 1 500-2 3 000-1½ 3 000-2 3 000-2	Within 4.1 miles of Homestake FM climb westbound to 10,000' on 270° radial Whitehall VOR within 15 miles of Homestake FM; alternate missed approach when directed by ARTC: Climb westbound to 10,000' on 093° radial Butte VOR to VOR. CAUTION: 8 212' terrain 2 miles E of Butte Airport. NOTE: Sliding scale not authorized for landing
CHARLOTTE N C Douglas, 748'. BVOR-CLT. Procedure No 1 Amendment 1 Effective date: December 24 1955. Supersedes Amendment. Original, August 20, 1955 Major changes: Courses and distances revised	Charlotte LFR	187—14 0	2 100	E side of course: 186° outbound 006 inbound. 2 000' within 10 miles	CLT-VOR 1 600 CLT-LFR/Z *1 600	006—15 3 006—1.7	2 engines or less T-dn *C-dn *A-dn More than 2 engines T-dn *C-dn *A-dn	 300-1 400-1 800-2 	 300-1 500-1 800-2 200-½ 500-1½ 800-2	Within 1.7 miles climb to 2 300' on radial 006° or when directed by ATC turn right climb to 2 300' on radial 040° within 25 miles. CAUTION: 1,116 mean sea level tower located 4 miles SE of LFR and 3 miles E of final approach course. *If LFR/Z not identified descent below 1,600' not authorized and minima become 900-2
ROSWELL, N. MEX Roswell, 3,621' BVOR-ROW Procedure No 1 Original. Effective date: December 24 1955	ROW-LFR.	274—10 0	5, 500	SE side of course: 207° outbound 027° inbound. 5 300' within 10 miles	4 800	027—5.7	2 engines or less T-dn C-dn S-dn Runway 3 A-dn More than 2 engines T-dn C-dn S-dn Runway 3 A-dn	 300-1 500-2 400-1 800-2 	 300-1 500-2 400-1 800-2 *200-½ 500-2 400-1 800-2	Within 5 9 miles climb to 5,000' on radial 027° within 25 miles Alternate missed approach when directed by ATC turn left climb to 5 500' on radial 323° within 25 miles. *300-1 required runway 12

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No; effective date	Init al approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at author ized landing minimums after passing fa cility within distance specified or if land ing not accomplished
							Condition	Type aircraft 75 m. p. h or less	Type aircraft More than 75 m p h	
1	2	3	4	5	6	7	8	9	10	11
SOUTH BEND, IND. St. Joseph County, 778' BVOR-VDT SBN Procedure No. 1 Amendment No. 4. Effective date: December 24, 1955. Supersedes Amendment 3 dated December 21, 1954. Major changes: (1) Minor revi sions to transitions; (2) alti tude revised column 11 ac count new obstruction, 962' mean sea level which is to be erected in the near future	Goshen LFR	305—29 0	2,200	W side of course: 360° outbound 180° inbound. 2,100' within 10 miles	1 400	180—4 0	2 engines or less			Within 4 miles make right turn, climbing to 2,000 and return to SBN VOR or when directed by ATC: (1) Climb to 2,000' on SBN VOR 180° radial within 25 miles
	South Bend LFR	031—6 0	2,000				T-dn	300-1	300-1	
	Union Intersection	266—25 0	2,000				C-dn	500-1	500-1	
	North Liberty Intersection	012—17 0	2,000				A-dn	800-2	800-2	
	Intersection W course SBN LFR and 253° radial SBN VOR	073—14 0	2,000				More than 2 engines			
	Intersection N course SBN LFR and 350° radial SBN VOR	170—14.0	1,900				T-dn		200-½	
							C-dn		500-1½	
							A-dn		800-2	
TUCUMCARI, N. MEX. Tucumcari Municipal, 4 063' BVOR-TCC Procedure No. 1 Amendment No. 4. Effective date: May 23, 1954	PROCEDURE CANCELED AND SUPERSEDED BY TVOR PROCEDURE, EFFECTIVE DECEMBER 24, 1955									

3 The very high frequency omnirange procedures prescribed in § 609 9 (b) are amended to read in part:

TVOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If a TVOR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below

City and State, airport name, elevation; facility; class and identification; procedure No (TVOR); effective date	Initial approach to facility from—	Course and distance	Mini mum al titude (ft.)	Procedure turn (—) side of final approach course (out bound and inbound); al titudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance from int. runway center line extended and final course to approach end of run way	Ceiling and visibility minimums			If visual contact not established at TVOR, or if landing not accomplished
							Condition	Type aircraft 75 m. p. h or less	Type aircraft More than 75 m p h	
1	2	3	4	5	6	7	8	9	10	11
TUCUMCARI, N. MEX. Tucumcari Municipal, 4 063' BVOR-TCC TVOR-21 Original, Effective date: December 24, 1955	Tucumcari LFR ..	078—3. 0	5,200	W side of course: 019° outbound 199° inbound. 5,100' within 10 miles	4,500	212—0.0 to Runway 21	All procedures			Climb to 6 000 within 25 miles on radial 255° CAUTION: 5,020' terrain 6 miles SW of airport.
							2 engines or less			
							T-dn	300-1	300-1	
							C-dn	500-1	500-1	
							S-dn Runways 21, 26	400-1	400 1	
							A-dn	800-2	800-2	
TVOR-26				N side of course: 066° outbound 246° inbound. 5,100' within 10 miles	4,500	257—0.0 to Runway 26	More than 2 engines			
							T-dn		300-1	
							C-dn		500-1½	
							S-dn 21, 26		400-1	
							A-dn		800-2	

4 The very high frequency omnirange procedures prescribed in § 609 9 (c) are amended to read in part:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses, and radials are magnetic Elevations and altitude are in feet MSL.
If a VOR/DME instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator of Civil Aeronautics for such airport Initial approaches shall be made over specific routes Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.
NOTE: Distances are in nautical miles unless otherwise indicated except visibilities which are in statute miles.

El Paso Tex ; International Airport; elevation 3 936 ; facility BVOR-DME; identification ELP; Amendment No original; effective date December 24 1955; supersedes, none

Transition to facility or transition to DME orbit				Procedure turn; side of approach radial; altitudes; limiting distances	Minimum altitude on approach radial				Procedure No.; direct or right or left turn to final approach orbit; Runway No	Minimum altitude on final approach orbit			Ceiling and visibility minimums				If visual contact not established at authorized landing minimums at fix specified, or if landing not accomplished—
													Condition	Two engines or less		More than two engines	
From— (mi)	To— (mi)	Radial	Minimum altitude (ft)		From— (mi)	To— (mi)	Radial	Minimum altitude (ft)		From radial	To radial	Minimum altitude (ft)		65 knots or less	More than 65 knots	More than 65 knots	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
15	8	259	8 500	S side 079 6,500' within 10 miles	10	5	079	#5 200	Procedure No. 1 direct to Runway 26				T-dn	300-1	300-1	200-½	Turn left to 125°, climb to 5,000 , intercept and proceed on radial 150° within 25 miles #DME not required for Procedure No. 1 if 5,200' is maintained to VOR. ##Straight-in to runway indicated by procedure. NOTE: When authorized by ATC, DME may be used within 10 miles between radials 325° clockwise to 200° at 6,000' to position aircraft for final approach with the elimination of a procedure turn
8	0	259	5 100		5	0	079	4 800					C-dn	400-1	500-1	500-1½	
					0	4 7	259	4,300					##S-dn	400-1	400-1	400-1	
													A-dn	800-2	800-2	800-2	
					10	0	079	5,200	Procedure No. 2 left 5.9 Runway 17	325	278	4 400					
					0	5 9	325	4,500		278	269	4 300					
					*10	0	079	5 200	Procedure No 3 right 5.8 Runway 35	200	247	4 400					
					0	5 8	200	4 600		247	257	4 300					

Greensboro N C ; Greensboro-High Point Airport; elevation 913'; facility BVOR-DME; identification GSO; Amendment No original; effective date December 24 1955; supersedes none

				E side 210 2,300' within 10 miles	10	0	210	1 800	Procedure No. 1 direct to Runway 5				T-dn	300-1	300-1	200-½	Climb to 2,300' on radial 030° within 25 miles
					0	3 0	030	1 300					C-dn	500-1	500-1	500-1½	
													*S-dn	400-1	400-1	400-1	
													A-dn	800-2	800-2	800-2	
				W side 035 2,300' between 6 miles and 16 miles	16	6 0	035	1 800	Procedure No. 2 direct to Runway 23								Turn left, climb to 2 400' on radial 125° within 25 miles. *Straight in to runway indicated by procedure. NOTE: When authorized by ATC, DME may be used within 10 miles at 2,500' in all directions to position aircraft for final approach, with the elimination of a procedure turn
					6 0	4.0	035	1 300									

5 The instrument landing system procedures prescribed in § 609 11 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If an ILS instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure, authorized by the Administrator for Civil Aeronautics for such airport Initial approaches shall be made over specified routes Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below:

City and State; airport name, elevation; facility; class and identification; procedure No ; effective date	Transition to ILS				Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope intercept ion inbound (ft)	Altitude of glide slope and distance to approach end of runway at—		Ceiling and visibility minimums			If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
	From—	To—	Course and distance	Minimum altitudes (ft)			Outer marker	Middle marker	Condition	Type aircraft: 75 m.p.h or less	Type aircraft: More than 75 m p h	
1	2	3	4	5	6	7	8	9	10	11	12	13
FORT WORTH, TEX Meacham, 692' ILS-IFTW. Procedure No. 2 Amendment 4. Effective date: December 24, 1955. Supersedes Amendment 3, dated July 29 1954. Major changes: Raise final approach altitude. Delete transitions. Add to Caution Note.	Stadium VHF Intersection	Rockwood FM (final)	354—5	1,500	W side of S course: 174° outbound 354° inbound 2,000' within 10 miles Rockwood FM #	No glide slope, 2.6 miles from 35	1,500 at Rockwood FM, approach end of Runway		2 engines or less			Within 2.6 miles of Rockwood FM, climb to 2,000' on N course ILS within 25 miles. CAUTION: Tank 864' mean sea level located 1.5 miles W of course between Rockwood FM and airport. TV tower 1,743' mean sea level located 5 5 miles E of S course ILS. #Procedure turn nonstandard due obstruction *635 feet per minute descent required at 120 miles per hour. AIR CARRIER NOTES: Takeoff on Runways 9-27 and 13-31 not authorized with less than 300-1. Reduction in landing minima not authorized on cargo and ferry flights
									T-dn	300-1	300-1	
									C-dn	600-1	600-1	
									*S-dn 35	400-1	400-1	
									A-dn	800-2	800-2	
	Intersection W course DAL-LFR and S course ILS	Rockwood FM (final)	354—5	1,500					More than 2 engines			
									T-dn		200-½	
									C-dn		600-1½	
									*S-dn 35		400-1	
									A-dn		800-2	
MIAMI, FLA. International, 9' ILS-IMIA LOM MI. Combination ILS and ADF. Procedure No. 1 Amendment 5. Effective date: November 24, 1955. Supersedes Amendment M-4, dated July 2, 1955 Major changes: Change of glide slope angle and elevation over markers.	Miami VOR --	OM	264—1.5	1,100	N side W course: 266° outbound 086° inbound 1,100' within 10 miles	ILS 1,100	1,070—4.4	205—0.7	2 engines or less			Climb to 1,400' on E course ILS or 4.4 miles after passing LOM (ADF), climb to 1,400' on course of 086° within 25 miles, or when directed by ATC turn right to 169°, climb to 1,400' and proceed SE, on SE course LFR or VOR radial 150° within 25 miles. #Right turn from S or left turn from N, from Miami LFR to LOM not authorized. *Course and distance LOM to runway 9L 073° 4.7 miles
	Miami LFR# (final).....	LOM. ---	086—1.5	ILS 1,100		ADF over LOM 600			T-dn	300-1	300-1	
				ADF 600					C-dn	400-1	600-1	
									S-dn 9R ILS	200-½	200 ½	
									ADF	400-1	400-1	
									More than 2 engines			
									T-dn	--	200-½	
									C-dn		600-1½	
									S-dn 9R ILS		200-½	
									ADF		400-1	
									All aircraft			
									*S-dn 9L ILS		400-1	
									ADF		400-1	
									A-dn ILS		600-2	
									ADF		800-2	

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No ; effective date	Transition to ILS				Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope intercep tion inbound (ft)	Altitude of glide slope and distance to approach end of runway at—		Ceiling and visibility minimums			If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
	From—	To—	Course and distance	Minimum altitudes (ft)			Outer marker	Middle marker	Condition	Type aircraft 75 m.p.h or less	Type aircraft More than 75 m p h	
1	2	3	4	5	6	7	8	9	10	11	12	13
NEWARK, N. J. Newark Airport 18' ILS-EWR LOM-EW. Combination ILS-ADF Procedure No. 1 Amendment No. 7. Effective date: December 24, 1955. Supersedes Amendment 6, dated April 1, 1954 Major changes: Includes runway visual range minimums	New Brunswick Intersection	Woodbridge Intersection #	074—14	1 500	E side of SW course: 217° outbound 037 inbound 1 500' within 10 miles	ILS 1 500	1 525—5 6	250—0 7	2 engines or less			Climb to 1,000' on NE course ILS or on 037° course from LOM, then make left climbing turn to Paterson Radiobeacon at 2,000' or when directed by ATC: (1) Make climbing left turn to 2 000' direct to Chatham Radiobeacon, or (2) make a right climbing turn to 1,500' return to LOM. #Straight in approach authorized from Woodbridge Intersection (intersection 352° radial OLT VOR and SW course ILS or 037° bearing to LOM). *Runway 4 only: 200-½ or runway visual range of 2 600': Provided, that approaches conducted on the basis of reported runway visual range shall be governed by the following: (1) All components of the approach lights and high intensity runway lights shall be in normal operation and (2) descent below the authorized landing minimum altitude of 218' mean sea level shall not be made unless (a) visual contact with the approach lights has been established or (b) the aircraft is clear of clouds
						ADF 1,000 over LOM			T-dn	300-1	300-1	
									C-dn	600-1	600-1	
	Colts Neck VOR	Woodbridge Intersection #	352—17	1 500					S-dn 4 ILS	200-½	*200-½	
									ADF	600-1	600-1	
	Flatbush Radiobeacon	LOM	276—11	1, 500					A-dn ILS	600-2	600-2	
	Newark LFR	LOM	207—5	1 500					ADF	800-2	800-2	
	Chatham Radiobeacon	LOM	140—14	2, 000					More than 2 engines			
	Radar transition altitudes south quadrant Newark LFR: Within 15 nautical miles 1,500'. All other directions within 20 nautical miles 2 500'								T-dn		200-½	
									C-dn		600-1½	
									S-dn 4 ILS		200-½	
									ADF		600-1	
									A-dn ILS		600-2	
									ADF		800-2	

These procedures shall become effective on the dates indicated in Column 1 of the procedures

(Sec 205, 52 Stat 984, as amended; 49 U S C 425 Interpret or apply sec 601 52 Stat 1007 as amended; 49 U S C 551)

[SEAL]

F B LEE,
Administrator of Civil Aeronautics

[F R Doc 55-9463; Filed Nov 25 1955; 8:45 a m]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 211—REAL ESTATE ACTIVITIES OF THE CORPS OF ENGINEERS IN CONNECTION WITH CIVIL WORKS PROJECTS

RECONVEYANCE OF LAND OR INTERESTS THEREIN ACQUIRED FOR DEMOPOLIS LOCK AND DAM PROJECT, ALABAMA TO FORMER OWNERS

Section 211 4a, prescribing rules and regulations governing the reconveyance of land or interests therein acquired for the Demopolis Lock and Dam Project Alabama to former owners pursuant to Public Law 312 84th Congress is added as follows:

§ 211 4a *Reconveyance of land or interests therein acquired for the Demopolis Lock and Dam Project, Alabama, to former owners pursuant to Public Law 312 84th Congress*—(a) *Definitions*—(1) *General.* Any term used in this section which is defined in Public Law 312, 84th Congress, shall have the meaning given to it in said Public Law.

(2) *Land* Any land or interest in land acquired by the United States for the Demopolis Lock and Dam, Alabama

(b) *Determination of whether land is required for public purposes* The Chief of Engineers and/or the Assistant Chief of Engineers for Civil Works is hereby delegated authority to determine which lands are not required for public purposes and to determine the exceptions restrictions, and reservations as are in the public interest to be included in any reconveyance Such determinations will be made so as to adjust the ownership in lands heretofore acquired to conform with the land acquisition policy of the Department of the Army currently in effect at that project

(c) *Notice to former owners of availability of land for reconveyance.* Upon determination in accordance with this section that land is not required for public purposes the District Engineer, Mobile District Corps of Engineers Mobile, Alabama shall give notice to the former owner thereof: (1) By registered letter addressed to the last known address of the former owner; and (2) by publication at least twice at not less than 15-day intervals in two newspapers having general circulation in the vicinity in which the land is located

(d) *Filing of application* Application for reconveyance of land shall be filed with the District Engineer Mobile District Corps of Engineers Mobile, Alabama Said application shall be in writing dated and signed by a former owner or by his attorney in fact and shall identify the land for which he is making application for reconveyance. Any such application will be considered as filed timely when mailed to or delivered to the aforementioned District Engineer within 90 days from the date of the

last publication of availability of the land for reconveyance to said former owners. Any application may be withdrawn by written notice, executed by the former owner or by his attorney in fact, to the said District Engineer at any time prior to the execution of the contract of sale.

(e) *Determination of price.* Upon receipt of an application from a former owner, the Chief of Engineers and/or the District Engineer, Mobile District, Corps of Engineers, Mobile, Alabama, is hereby delegated authority to determine the price at which the land will be sold pursuant to the provisions of section 1 (d) of Public Law 312, 84th Congress, and the cost of any surveys required incident thereto.

(f) *Contract for sale.* Upon determination of the price at which the land will be reconveyed, the District Engineer, Mobile District, Corps of Engineers, Mobile, Alabama, will prepare a contract of sale containing the terms and conditions of the reconveyance and deliver it to the applicant for acceptance. The contract of sale shall provide for the deposit of earnest money equal to 20 per cent of the price at which the land will be sold or the estimated cost of any surveys required incident to the reconveyance, whichever is greater. The deposit will be applied to the price at the time of settlement. In the event of default, the deposit will be retained by the Government as liquidated damages. Failure of the applicant to execute the contract of sale and to deposit the earnest money with the said District Engineer within 30 days after receipt thereof, unless a written extension of said 30 days is granted by said District Engineer, shall be deemed by said District Engineer to be a withdrawal of the application for reconveyance. Authority is hereby delegated to the Chief of Engineers and/or the District Engineer, Mobile District, Mobile, Alabama to execute the contract of sale for and on behalf of the United States of America.

(g) *Conveyance.* Reconveyance of the land will be by quitclaim deed executed by the Secretary of the Army.

(h) *Failure of former owner to make application for reconveyance.* If no application for reconveyance is made by a former owner within 90 days from the date of the last publication of the notice in a newspaper, the Chief of Engineers and/or the District Engineer, Mobile District, Corps of Engineers, Mobile, Alabama, is hereby delegated authority to certify that notice has been given to the former owner of such land pursuant to Public Law 312, 84th Congress, and this section, and that no qualified applicant has made timely application for reconveyance of such land. After such certification has been executed, disposition of the land shall be made pursuant to the Federal Property and Administrative Services Act of 1949, as amended, subject to such reservations, restrictions, exceptions, and conditions as the Chief of Engineers and/or the Assistant Chief of Engineers for Civil Works consider necessary for the operation of the project or in the public interest.

[Regs., Oct. 19, 1955, 602-ENGLT] (Pub. Law 312, 84th Cong.)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-9462; Filed, Nov. 25, 1955; 8:45 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; sec. 701, 52 Stat. 1055 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F. R. 1996) the regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR, 1954 Supp., Parts 146, 146a, 146b, 146c, 146e) are amended as indicated below:

1. In § 146.26 *Animal feed containing penicillin* * * * paragraph (b) (1) (i) is amended by inserting the following parenthetical clause immediately after "0.0125 percent": (or if it is intended solely for the prevention of the intestinal coccidia *E. acervalina* in poultry laying flocks, not less than 0.005 percent)"

2. Section 146a.51 *Buffered penicillin powder* * * * is amended by adding the following new paragraph:

(f) *Exemption of buffered penicillin powder and penicillin powder with buffered aqueous diluent for veterinary use from certification.* Buffered penicillin powder and penicillin powder with buffered aqueous diluent that conform to the requirements of paragraphs (a) (except that they may contain one or more essential vitamin and mineral substances for nutritive purposes), (b), and (c) of this section shall be exempt from the requirements of sections 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) They are intended solely for veterinary use and are conspicuously so labeled.

(2) If they contain added vitamins or minerals, the labels bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The labels bear an expiration date that is not more than 36 months after the month during which the batch was last assayed and released by the manufacturer.

(4) The labels bear a statement that solutions prepared with the drugs are stable for not more than 24 hours.

(5) The circular or other labeling within or attached to the package bears information that only the antibiotics are intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Chronic respiratory disease (air-sac infection) in chickens.

(ii) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

(iii) Infectious sinusitis in poultry.

3. Section 146a.87 *Penicillin-bacitracin-neomycin ointment* * * * is amended by changing the first sentence in paragraph (a) to read as follows: "It contains not less than 5.0 milligrams of neomycin and not less than 250 units of bacitracin per gram, unless it is packaged and labeled solely for veterinary use."

4. Section 146a.88 *Penicillin-streptomycin tablets* * * * is amended by adding the following new paragraph:

(c) *Exemption of penicillin-streptomycin tablets and penicillin-dihydrostreptomycin tablets for veterinary use from certification.* Penicillin-streptomycin tablets and penicillin-dihydrostreptomycin tablets that conform to the requirements of paragraph (a) of this section (except that they may contain one or more essential vitamin and mineral substances for nutritive purposes) shall be exempt from the requirements of sections 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) They are intended solely for veterinary use and are conspicuously so labeled.

(2) If they contain added vitamins or minerals, the labels bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The labels bear an expiration date that is not more than 18 months after the month during which the batch was last assayed and released by the manufacturer.

(4) The labels bear a statement that solutions prepared with the drugs are stable for not more than 24 hours.

(5) The circular or other labeling within or attached to the package bears information that only the antibiotics are intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Chronic respiratory disease (air-sac infection) in chickens.

(ii) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

5. Section 146a.93 *Penicillin-streptomycin powder; penicillin-dihydrostreptomycin powder* is amended by adding the following new paragraph:

(e) *Exemption of penicillin-streptomycin powder and penicillin-dihydrostreptomycin powder for veterinary use from certification.* Penicillin-streptomycin powder and penicillin-dihydrostreptomycin powder that conform to the requirements of this section (except that they may contain one or more essential vitamin and mineral substances for nutritive purposes) shall be exempt from the requirements of section 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) They are intended solely for veterinary use and are conspicuously so labeled.

(2) If they contain added vitamins or minerals, the labels bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The labels bear an expiration date that is not more than 12 months after the month during which the batch was last assayed and released by the manufacturer.

(4) The labels bear a statement that solutions prepared with the drugs are stable for not more than 24 hours.

(5) The circular or other labeling within or attached to the package bears information that only the antibiotics are intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Bacterial enteritis in swine.

(ii) Bacterial calf scours.

(iii) Chronic respiratory disease (air-sac infection) in chickens.

(iv) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

(v) Infectious sinusitis in poultry.

6. Section 146b.112 *Streptomycin for inhalation therapy* * * * is amended by adding the following new paragraph:

(f) *Exemption of streptomycin for inhalation therapy and dihydrostreptomycin for inhalation therapy for veterinary use from certification.* Streptomycin for inhalation therapy and dihydrostreptomycin for inhalation therapy that conform to the requirements of paragraphs (a) (b) and (c) of this section shall be exempt from the requirements of section 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) They are intended solely for veterinary use and are conspicuously so labeled.

(2) The labels bear an expiration date that is not more than 48 months after the month during which the batch was last assayed and released by the manufacturer, except that such date is not more than 24 months if it is packaged with inert gases.

(3) The circular or other labeling within or attached to the package bears information that the antibiotics are for use only in the prevention or treatment of chronic respiratory disease (air-sac infection) in chickens and bears directions and warnings adequate for such use.

7. In § 146b.115 *Streptomycin sulfate powder oral veterinary* * * *, paragraph (f) is amended to read as follows:

(f) *Exemption of streptomycin sulfate powder oral veterinary and streptomycin sulfate granules oral veterinary from certification.* Streptomycin sulfate powder oral veterinary and streptomycin sulfate granules oral veterinary that conform to the requirements of paragraphs (a) (except that they may contain one or more essential vitamin and mineral substances for nutritive purposes) (b) and (c) of this section shall be exempt from the requirements of sections 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) The labels bear an expiration date that is not more than 36 months after the month during which the batch was last assayed and released by the manufacturer.

(2) If they contain added vitamins or minerals, the labels bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The labels bear a statement that solutions prepared with the drugs are stable for not more than 24 hours.

(4) The circular or other labeling within or attached to the package bears information that only the antibiotics are intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Bacterial enteritis in swine.

(ii) Bacterial calf scours.

(iii) Chronic respiratory disease (air-sac infection) in chickens.

(iv) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

8. Section 146b.119 *Streptomycin hydrochloride solution oral veterinary* is amended by adding the following new paragraph:

(f) *Exemption of streptomycin hydrochloride solution oral veterinary and streptomycin sulfate solution oral veterinary from certification.* Streptomycin hydrochloride solution oral veterinary and streptomycin sulfate solution oral veterinary that conform to the requirements of paragraphs (a) (except that they may contain one or more essential vitamin and mineral substances for nutritive purposes) (b) and (c) of this section shall be exempt from the requirements of sections 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) The labels bear an expiration date that is not more than 12 months after the month during which the batch was last assayed and released by the manufacturer.

(2) If they contain added vitamins or minerals, the labels bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The labels bear a statement that solutions prepared with the drugs are stable for not more than 24 hours.

(4) The circular or other labeling within or attached to the package bears information that only the antibiotics are intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Bacterial enteritis in swine.

(ii) Bacterial calf scours.

(iii) Chronic respiratory disease (air-sac infection) in chickens.

(iv) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

9. Section 146c.205 *Chlortetracycline powder* * * * is amended by adding the following new paragraph:

(f) *Exemption of chlortetracycline powder for veterinary use, tetracycline hydrochloride powder for veterinary use, and tetracycline powder for veterinary use from certification.* Chlortetracycline powder, tetracycline hydrochloride powder, and tetracycline powder that conform to the requirements of paragraphs (a) (except that if they contain one or more added vitamin substances such substances are essential for nutritive purposes, and except that they may contain one or more added mineral substances essential for nutritive purposes), (b), and (c) of this section shall be exempt from the requirements of sections 502 (l) and 507 of the act, if they comply with all the following conditions:

(1) They are intended solely for veterinary use and are conspicuously so labeled.

(2) If they contain added vitamins or minerals, the labels bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The labels bear an expiration date that is not more than 48 months, or 24 months if it contains a vitamin substance or it is tetracycline hydrochloride powder or tetracycline powder, after the month during which the batch was last assayed and released by the manufacturer.

(4) The labels bear a statement that solutions prepared with the drugs are stable for not more than 24 hours.

(5) The circular or other labeling within or attached to the package bears information that only the antibiotics are intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Pinkeye and superficial cuts and abrasions.

(ii) Bacterial enteritis in swine.

(iii) Bacterial pneumonia in swine.

(iv) Chronic respiratory disease (air-sac infection), hexamitiasis, blue comb (mud fever, nonspecific infectious enteritis) in poultry,

(v) Infectious sinusitis in poultry.

10. Section 146c.219 (f) is amended to read as follows:

§ 146c.219 *Crude chlortetracycline oral veterinary.* * * *

(f) *Exemption of crude chlortetracycline oral veterinary from certification.* Crude chlortetracycline oral veterinary that conforms to the requirements of paragraphs (a) (except that it may contain one or more essential vitamin and mineral substances for nutritive purposes) (b) and (c) of this section shall be exempt from the requirements of sections 502 (l) and 507 of the act, if it complies with all the following conditions:

(1) If it contains added vitamins or minerals, its label bears the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(2) The label bears an expiration date that is not more than 12 months after the month during which the batch was last assayed and released by the manufacturer.

(3) The label bears a statement that solutions prepared with the drug are stable for not more than 24 hours.

(4) The circular or other labeling within or attached to the package bears information that only the antibiotic is intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Bacterial enteritis in swine.

(ii) Bacterial pneumonia in swine.

(iii) Chronic respiratory disease (air-sac infection) hexamitiasis, blue comb (mud fever, nonspecific infectious enteritis) in poultry.

(iv) Infectious sinusitis in poultry.

11. Section 146e.423 *Soluble bacitracin methylene disalicylate* is amended by adding the following new paragraph:

(c) *Exemption of soluble bacitracin methylene disalicylate from certification.* Soluble bacitracin methylene disalicylate that conforms to the requirements of paragraphs (a) (except that it may contain one or more essential vitamin and mineral substances for nutritive purposes) and (b) of this section shall be exempt from the requirements of sections 502 (l) and 507 of the act if it complies with all the following conditions:

(1) Its label bears an expiration date that is not more than 24 months after the month during which the batch was last assayed and released by the manufacturer.

(2) If it contains added vitamins or minerals, its label bears the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The label bears a statement that solutions prepared with the drug are stable for not more than 24 hours.

(4) The circular or other labeling within or attached to the package bears information that only the antibiotic is intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Chronic respiratory disease (air-sac infection) in chickens.

(ii) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

(iii) Infectious sinusitis in poultry.

(iv) Bacterial enteritis in swine.

12. Section 146e.425 *Bacitracin powder* is amended by adding the following new paragraph:

(f) *Exemption of bacitracin powder from certification.* Bacitracin powder that conforms to the requirements of paragraphs (a) (except that it may contain one or more essential vitamin and mineral substances for nutritive purposes), (b) and (c) of this section, except paragraph (c) (1) (iii), shall be exempt from the requirements of sections 502 (l) and 507 of the act if it complies with all the following conditions:

(1) Its label bears an expiration date that is not more than 18 months after the month during which the batch was last assayed and released by the manufacturer.

(2) If it contains added vitamins or minerals, its label bears the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(3) The label bears a statement that solutions prepared with the drug are stable for not more than 24 hours.

(4) The circular or other labeling referred to in paragraph (c) (2) of this section bears information that only the antibiotic is intended for the prevention or treatment of the following conditions, and further, bears directions and warnings adequate for such use:

(i) Chronic respiratory disease (air-sac infection) in chickens.

(ii) Blue comb (mud fever, nonspecific infectious enteritis) in poultry.

(iii) Infectious sinusitis in poultry.

(iv) Bacterial enteritis in swine.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, since it conditionally relaxes existing requirements, and since it would be against public interest to delay providing for the amendments set forth above.

I further find that the drugs exempted from certification by amendments 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of this order need not comply with the requirements of section 502 (l) and 507 of the Federal Food, Drug, and Cosmetic Act in order to insure their safety and efficacy provided they comply with the provisions specified in the amendments designated above.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the effected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. and Sup. 357)

Dated: November 21, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner of Food and Drugs.

[F. R. Doc. 55-9468; Filed, Nov. 25, 1955; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

Subchapter C—Mail Classification and Rates

PART 29—MIXED CLASSES

COMBINATION MAILING

CROSS REFERENCE: For temporary regulations affecting Part 29 of this chapter see F. R. Doc. 55-9523 under Post Office Department in the Notices Section of this issue.

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1943]

PART 255—TOWN SITES

MISCELLANEOUS AMENDMENTS

Sections 255.9, 255.10, 255.11, and 255.15, are amended to read as follows:

§ 255.9 *Town site settlement.* Section 2382 of the Revised Statutes, as amended by the act of August 24, 1954 (68 Stat. 792) and sections 2383, 2384, and 2386 of the Revised Statutes (43 U. S. C. 713-715, 717) authorize the platting of town sites by or for the occupants and the disposal of such town sites, where town site settlement has been or may be made upon unreserved public lands subject to such settlement. Public lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, or 6964 of February 5, 1935, are not subject to occupation for town site purposes unless first classified for such occupation, pursuant to Part 296 of this chapter.

§ 255.10 *Filing with county recorder of plat, field notes, and statement of improvements.*[1] (a) The occupants, at their own expense, must cause a survey of the land into lots, blocks, streets, and alleys to be made, and the plat and field notes thereof to be filed with the recorder of the county in which the land is situated. The plat must show (1) that the land does not include an area in excess of 640 acres; (2) that the boundaries of the land are correctly shown and described thereon according to the lines of the public surveys, or if not so surveyed, then that the exterior lines of

[1] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

the townsite survey are tied to a designated, permanent, and thoroughly identified monument; (3) that the streets, blocks, lots, and alleys, the dimensions of the same, with measurements, courses, and area of each municipal subdivision, and the name of the town, are correctly delineated thereon; and (4) the exterior lines of all existing railroad rights-of-way and station grounds. The lots shall conform in size to local ordinances or accepted local standards for subdivision platting, or in the absence of such ordinances or standards, to standards prescribed by the authorized official of the Bureau of Land Management. The above-required facts should be embodied in the statement of the surveyor entered upon the margin of the plat.

(b) A statement of the extent and general character of the improvements on the land must be filed with the plat and field notes, and over the signature of the party acting for and on behalf of the occupants of the land.

§ 255.11 *Filing in land office, in duplicate, of transcript of plat, field notes, and statement.* Within one month after filing such plat, field notes, and statement, a transcript thereof in duplicate, each copy duly verified by the certificate of the county recorder, and accompanied by the statement of the two persons that such town has been established in good faith, and showing the number of inhabitants thereof and when it was so established, shall be filed with the manager of the land office having jurisdiction over the land district in which the town site is located.

§ 255.15 *Minimum price of lots.* The minimum price for all lots is $10 per lot, except in cases where the survey into lots and blocks is made by the Government, in which case the minimum price is $15 per lot.

(R. S. 2478; 43 U. S. C. 1201. Interpret or apply 68 Stat. 792; 43 U. S. C. 713)

DOUGLAS MCKAY,
Secretary of the Interior

NOVEMBER 18, 1955.

[F. R. Doc. 55-9469; Filed, Nov. 25, 1955; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

DEHYDRATED ORANGE JUICE [1]

U. S. STANDARDS FOR GRADES

Notice is hereby given that the United States Department of Agriculture is considering the issuance of United States Standards for Grades of Dehydrated Orange Juice pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1621 et seq.) This issuance, if made effective, will be the first issue by the Department of grade standards for this product.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed standards are as follows:

PRODUCT DESCRIPTION, AND GRADES

Sec.
52.2981 Product description.
52.2982 Grades of dehydrated orange juice.

FACTORS OF QUALITY

52.2983 Ascertaining the grade.
52.2984 Ascertaining the rating for the factors which are scored.
52.2985 Color.
52.2986 Defects.
52.2987 Flavor.

EXPLANATIONS AND METHODS OF ANALYSES

52.2988 Definition of terms.
52.2989 Methods of analyses.

LOT CERTIFICATION TOLERANCES

52.2990 Tolerances for certification of officially drawn samples.

SCORE SHEET

Sec.
52.2991 Score sheet for dehydrated orange juice.

AUTHORITY: §§ 52.2981 through 52.2991 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

PRODUCT DESCRIPTION AND GRADES

§ 52.2981 *Product description.* Dehydrated orange juice (Crystals) is the product initially obtained from clean, sound, mature fruit of the sweet orange group (Citrus sinensis) and Mandarin group (Citrus reticulata) except tangerines. The fruit is prepared by sorting and by washing prior to extraction of the juice; the extracted juice is concentrated and single-strength orange juice extracted from sorted and washed fruit may or may not be admixed to the concentrate. The concentrated orange juice is processed in accordance with good commercial practice and may be dehydrated immediately or frozen and stored at suitable temperatures. The concentrated orange juice to which an amount of sodium bisulfite may have been added is dehydrated in accordance with good commercial practice. Cold-pressed orange oil and granules of sorbitol may be added to the product in such amounts as to provide a proper flavor to the reconstituted product. The product thus prepared is packaged with a desiccant in hermetically sealed containers and held at proper temperatures to assure stabilization of the product. The dehydrated orange juice reconstitutes into a single-strength orange juice that tests not less than 11.8 degrees Brix. The sulfur dioxide content of the dehydrated orange juice is not less than 100 p. p. m. nor more than 250 p. p. m.

§ 52.2982 *Grades of dehydrated orange juice.* (a) "U. S. Grade A" or "U. S. Fancy" is the quality of dehydrated orange juice that contains not more than 3 percent by weight of moisture; has a porous open structure free from lumps or other signs of caking; and which dissolves readily in water to produce an orange juice that is reasonably characteristic in appearance to fresh orange juice. The reconstituted juice possesses a very good color; is practically free from defects; possesses a good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U. S. Grade B" or "U. S. Choice" is the quality of dehydrated orange juice that contains not more than 3 percent by weight of moisture; has a reasonably porous open structure free from lumps; and which dissolves reasonably readily in water to produce an orange juice that is fairly characteristic in appearance to fresh orange juice. The reconstituted juice possesses a good color; is reasonably free from defects; possesses a reasonably good flavor; and scores not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of dehydrated orange juice that fails to meet the requirement of U. S. Grade B or U. S. Choice.

FACTORS OF QUALITY

§ 52.2983 *Ascertaining the grade—* (a) *General.* In addition to considering other requirements outlined in the standards, the following quality factors are evaluated:

(1) *Factors not rated by score points.* (i) Moisture content.

(ii) Physical condition and faculty of dissolving readily in water.

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each such factor is:

Factors:	*Points*
Color	40
Defects	20
Flavor	40
Total score	100

§ 52.2984 *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for such factors and expressed numerically. The numerical range within each factor which is scored is inclusive. (For example, "17 to 19"

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

means 17, 18, or 19 points) The rating is ascertained immediately after the product has been reconstituted to single-strength orange juice.

§ 52.2985 *Color*—(a) (*A*) *classification.* Dehydrated orange juice of which the reconstituted juice possesses a very good color may be given a score of 34 to 40 points. "Very good color" means a very good yellow to yellow-orange color that is bright and typical of rich-colored fresh orange juice.

(b) (*B*) *classification.* If the reconstituted juice possesses a good color a score of 28 to 33 points may be given. Dehydratd orange juice that falls into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule) "Good color" means that the color is the yellow to yellow-orange color typical of fresh orange juice, which may be dull but is not off-color for any reason.

(c) (*SStd.*) *classification.* If the reconstituted juice fails to meet the requirements of paragraph (b) of this section a score of 0 to 27 points may be given and the product shall not be graded above Substandard regardless of the total score for the product, (this is a limiting rule)

§ 52.2986 *Defects*— (a) *General.* The factor of defects refers to the degree of freedom from seeds or portions thereof, pulp, dark specks, improperly rehydrated orange material, or other defects that affect the appearance or drinking quality of the reconstituted juice.

(b) (*A*) *classification.* Dehydrated orange juice of which the reconstituted juice is practically free from defects may be given a score of 17 to 20 points. "Practically free from defects" means that the appearance and drinking quality of the juice is not materially affected by defects.

(c) (*B*) *classification.* If the reconstituted juice is only reasonably free from defects a score of 14 to 16 points may be given. Dehydrated orange juice that falls into this classification shall not be graded above U. S. Grade B or U. S. Choice regardless of the total score for the product, (this is a limiting rule) "Reasonably free from defects" means that the appearance and drinking quality of the juice is not seriously affected by defects.

(d) (*SStd.*) *classification.* Dehydrated orange juice that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard regardless of the total score for the product, (this is a limiting rule)

§ 52.2987 *Flavor*—(a) (*A*) *classification.* Dehydrated orange juice of which the reconstituted juice possesses a very good flavor may be given a score of 34 to 40 points. "Good flavor" means that the flavor is a distinct orange juice flavor typical of reconstituted, properly processed, canned concentrated orange juice which is free from terpenic, carmelized, oxidized, rancid or off-flavors. To score in this classification the ratio of the Brix to acid shall be not less than 12 to 1 nor more than 18 to 1 and the recoverable oil content not less than 0.006 nor more than 0.012 milliliter per 100 milliliters of the reconstituted juice.

(b) (*B*) *classification.* If the reconstituted juice posses a reasonably good flavor a score of 28 to 33 points may be given, Dehydrated orange juice that falls into this classification shall not be graded above U. S. Grade B or U. S. Choice regardless of the total score for the product, (this is a limiting rule). "Reasonably good flavor" means that the flavor is reasonably typical of reconstituted, properly processed, canned concentrated orange juice which is free from abnormal and off-flavors of any kind. To score in this classification the ratio of the Brix to acid shall be not less than 10.5 to 1 nor more than 19 to 1 and the recoverable oil content not less than 0.008 nor more than 0.20 milliliter per 100 milliliters of the reconstituted juice.

(c) (*SStd.*) *classification.* Dehydrated orange juice that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 27 points and shall not be graded above U. S. Grade C or U. S. Choice regardless of the total score for the product (this is a limiting rule)

EXPLANATIONS AND METHODS OF ANALYSES

§ 52.2988 *Definition of terms.* (a) "Reconstituted juice" means the product obtained by dissolving an entire package of dehydrated orange juice in the volume of water specified by the manufacturer.

(b) "Dissolves readily" means that (1) the product dissolves readily in the prescribed amount of cold water with only a reasonable amount of stirring, (2) that the fruit particles rehydrate readily, and (3) that there is no rapid separation of collodial or suspended matter.

(c) "Dissolves reasonably readily" means that (1) the product may require excessive stirring, beating or whipping to dissolve the solids, (2) fruit particles may not rehydrate readily, and/or (3) collodial or other suspended material is not held in suspension for a reasonable length of time.

(d) "Acid" means the percent by weight of acid (calculated as anhydrous citric acid) in the reconstituted orange juice and is determined by titration with standard sodium hydroxide solution using phenolphthalein as indicator.

(e) The "Brix" of the reconstituted juice means the degree Brix as determined by the Brix hydrometer calibrated at 20 degrees C. (68 degrees F.) and to which any applicable temperature correction has been applied.

§ 52.2989 *Methods of analyses.* (a) "Recoverable oil" is determined by the following method:

(1) *Equipment.* Oil separatory trap similar to either of those illustrated in Figure 1 and Figure 2.[1]

Gas burner or hot plate.
Ringstand and clamps.
Rubber tubing.
Three-liter narrow-neck flask.

[1] Filed as part of the original document.

(2) *Procedure.* Place exactly 2 liters of the reconstituted juice in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from bottom to top, and bring the mixture to a boil. Continue boiling for one hour at the rate of approximately 50 drops per minute. By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask; allow it to cool, and record the amount of oil recovered. The number of milliliters of oil recovered divided by 20 is equivalent to the number of milliliters of oil per 100 milliliters of the reconstituted juice.

(b) The "moisture content" of the dehydrated orange juice is determined as follows:

(1) A 3 to 5 gram sample is weighed into an aluminum weighing dish 1½ to 2 inches in diameter, having a tight-fitting cover. The samples are dried in a vacuum oven for 30 hours at a temperature of 60 degrees C. (140 degrees F.) and a pressure not exceeding 100 m.m. of mercury. During the drying period air is passed through H_2SO_4 and admitted through the release cock at the rate of approximately two bubbles per second. At the end of the drying period the dishes are removed from the oven, the covers are placed on immediately and the dishes allowed to cool in a desiccator prior to final weighing. Sampling and weighing is carried out as rapidly as possible under low humidity conditions.

(c) The "sulfur dioxide" content of the dehydrated orange juice is determined by the following method:

(1) The monier-Williams method for total sulforous acid as approved by the Association of Official Agricultural Chemists and using a 50-gram sample of the dehydrated orange juice.

LOT CERTIFICATION TOLERANCES

§ 52.2990 *Tolerances for certification of officially drawn samples.* (a) When certifying samples that have been officially drawn and which represent a specific lot of dehydrated orange juice the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if, (1) all containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification; and (2) with respect to those factors which are scored;

(i) Not more than one-sixth of the containers falls to meet the grade indicated by the average of such total scores;

(ii) None of the containers falls more than four points below the minimum score for the grade indicatd by the average of such total scores;

(iii) None of the containers falls more than one grade below the grade indicated by the average of such total scores; and

(iv) The average score of all containers for any factor subject to a limiting rule is within the score range of that factor for the grade indicated by the average of the total scores of the containers comprising the sample.

SCORE SHEET

§ 52.2991 *Score sheet for dehydrated orange juice.*

Size and kind of container	----
Container mark or identification	----
Label (including dilution factor)	----
Net weight	----
Brix of the reconstituted juice	----
Anhydrous citric acid (grams per 100 milliliters in the reconstituted juice)	----
Brix-acid ratio	----
Recoverable oil (ml./100 ml. of the reconstituted juice)	----
Reconstitutes properly: (Yes) (No)	

Factors		Score points	
Color	40	(A)	34-40
		(B)	[1] 28-33
		(SStd.)	[1] 0-27
Defects	20	(A)	17-20
		(B)	[1] 14-16
		(SStd.)	[1] 0-13
Flavor	40	(A)	34-40
		(B)	[1] 28-33
		(SStd.)	[1] 0-27
Total score	100		
Grade	----	----	----

[1] Indicates limiting rule.

Dated: November 22, 1955.

[SEAL] ROY W LENNARTSON,
Deputy Administrator
Marketing Services.

[F. R. Doc. 55-9497; Filed, Nov. 25, 1955; 8.50 a. m.]

[7 CFR Part 911]

[Docket No. AO-262]

HANDLERS OF MILK IN TEXAS PANHANDLE MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was conducted at Amarillo, Texas, January 31-February 7 and April 12-13, 1955, pursuant to notice thereof which was issued on January 8, 1955 (20 F R. 198) and March 24, 1955 (20 F R. 1785), respectively.

Upon the basis of the evidence introduced at the hearing and the record thereof the Deputy Administrator, Agricultural Marketing Service, on October 4, 1955, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on October 7, 1955 (20 F R. 7492)

Within the period reserved therefor, exceptions were filed to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions and regulatory provisions of this decision, such exceptions were carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled. To the extent that suggested findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth:

The material issues of record related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification of milk;

(c) The level and method of determining class prices;

(d) The method to be used in distributing proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

1. *Character of commerce.* The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The marketing area specified in the proposed order, hereinafter referred to as the Texas Panhandle marketing area, includes all the territory in the counties of Armstrong, Briscoe, Carson, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Moore, Oldham, Ochiltree, Potter, Randall, Roberts, Sherman, and Wheeler, all in the State of Texas. Milk handled in the marketing area moves in large volumes and in many forms back and forth over State lines. The production areas from which milk is received by the various handlers who distribute milk in the marketing area overlap State boundaries. Milk from the farms of many producers in Oklahoma and New Mexico is received at plants in the marketing area where it is processed and packaged for distribution to consumers. From a country station at Arnett, Oklahoma, milk received from producers is moved regularly to a milk plant at Amarillo, Texas, from which plant it is distributed for fluid consumption throughout the marketing area and in Oklahoma. During those months in recent years when producer deliveries were inadequate for the needs of the market, milk for fluid distribution in the marketing area was purchased by handlers in tank lots from plants in Oklahoma, Missouri, Wisconsin, and Illinois.

Handlers operating plants located in the marketing area are the principal distributors in the market. From several of such plants, distribution of Grade A milk for fluid consumption in New Mexico and Oklahoma represents a significant portion of their business Routes emanating from Elk City, Oklahoma, deliver substantial quantities of milk in the marketing area. In addition, deliveries are made regularly at some localities in the marketing area from a plant in Dodge City, Kansas.

Manufactured milk products made from excess milk in the plants of handlers, or at plants to which it has been transferred or diverted, are sold throughout various southwestern States. A principal outlet for Grade A milk received from producers which is in excess of that needed for fluid use is the Quint County Creamery at Mangum, Oklahoma. During the months of heavy production large quantities of milk are transferred or diverted by marketing area handlers to the Quint County plant. In addition to processing and packaging milk for fluid distribution in the nearby Texas and Oklahoma communities, a variety of manufactured dairy products which are moved in interstate commerce is made at this plant.

Routes of handlers under the Central West Texas and Southwest Kansas Federal milk marketing orders extend into the proposed marketing area, where milk is sold in competition with distributors who would be handlers under the Texas Panhandle order. At the plants of these handlers who are regulated by other Federal orders the interstate commerce factor is indicated by the receipts of milk from and distribution to locations outside the State of Texas.

2. *Need for an order* Marketing conditions in the Texas Panhandle marketing area justify the issuance of a marketing agreement and order.

There is no overall plan whereby farmers supplying the Texas Panhandle marketing area are assured of payment for their milk in accordance with its use. Neither is there a procedure whereby farmers may participate in the price determinations throughout the area necessary for the marketing of their milk, which because of its perishability must be delivered to the market soon after it is produced. Farmers cannot retain milk on their farms in order to await favorable price conditions. Production of milk for fluid use, under the sanitary requirements prevailing in the proposed marketing area, requires substantial investment.

A certain amount of reserve milk in excess of actual trade sales is necessary to assure consumers of an adequate supply of milk at all times. Fluctuations brought on by the seasonal nature of milk production, coupled with a relatively uniform pattern of consumption, necessitate the disposition of some of the Grade A milk produced for the market into manufacturing channels. Such excess milk must be manufactured into products and sold in competition with similar products produced from ungraded milk. Milk marketed in this manner returns considerably less than that marketed for fluid use. Consequently, a well-defined and uniformly applied plan of use classification and the proper pricing of milk in such uses

is necessary to prevent such excess milk from depressing the market price of all Grade A milk. To be successful, the classification of milk in accordance with its use and the payments to producers on a use basis, require full participation and cooperation of those engaged in the industry.

Orderly marketing of the milk produced for fluid consumption requires uniformly dependable methods for determining prices according to the use made of the milk. It also requires uniformity of pricing according to the use made of milk by each handler, and a means whereby lower average returns resulting from the maintenance of the necessary reserve supplies of milk may be shared equitably among producers.

The problems of unstable marketing encountered by producers in the Texas Panhandle marketing area are not uncommon in fluid milk markets. The problems, which have resulted in unrest and instability in this area, are similar to those characteristic of the fluid milk industry in the absence of regulation or a well-defined classified pricing plan. A marketing order as herein proposed will promote orderly marketing by assuring producers prices equivalent to those contemplated under the act.

The buying practices of various handlers in the market have caused chaotic conditions and instability in the marketing of milk. Prices paid farmers for milk for fluid use have frequently been below the Class I prices an order would provide. Producers have no means of ascertaining how their milk is utilized at the various plants to which they deliver, or whether the basis on which they are being paid from month to month will be revised. Accuracy of weights and butterfat tests have been ascertained infrequently. Payment of surplus prices by handlers for milk which producers believe was needed in the market for fluid consumption is one of the causes of instability and uncertainty in the market.

Several handlers in the area have dealt with farmers in such a way as to discourage cooperative action by these farmers. Some handlers refused to make deductions for cooperative dues from payments due member producers, even though such deductions had been properly authorized by the producers. Failure to make such deductions has limited the cooperative in instituting check weighing and testing programs.

Representatives of the principal producer cooperative association stated that major handlers in the market have refused or failed to recognize or to bargain with the association as to price, or any other terms with respect to the sale of the milk of its members. Some handlers in the area used various means to attempt to deter producers from affiliating with the cooperative association. They advised producers that they preferred to deal with them individually and in some instances indicated that preferential treatment would be given those producers who did not become members of the cooperative. Activity by producers in behalf of the cooperative association was looked upon with disfavor by handlers. A producer who was active in the soliciting of new members for the association was cut off by the handler to whom he was making deliveries because "his milk did not come up to the company's standards." Information from the Health Department indicated that it had never ordered the producer cut off or degraded and that the bacteria count of his milk was rarely over 5,000.

Producers contended that their milk is frequently rejected by handlers when such rejection is not warranted. It was stated that milk was rejected by a handler as being off flavor only when such handler had an excess supply of milk in his plant. Producers were further aggravated by the fact that a red coloring was added by the handler to rejected milk before it was returned to the producer, thus destroying the value such producer might realize from the sale of such rejected milk at a manufacturing plant.

Evidence adduced at the hearing indicated that the rates charged a large number of producers in the market by handlers for hauling are considerably greater than the actual cost of transporting such producers' milk from their farms to the handlers' plants. This has caused considerable dissatisfaction among producers, and has resulted in unjustly depressing producer returns. One producer, who complained that a rate of 95 cents per hundredweight was being deducted from his pay check for hauling for which the hauler was paid 75 cents per hundredweight, was advised by the handler to find another market for his milk if he was not satisfied.

Producers whose milk is received at a country plant at Arnett, Oklahoma (150 to 155 miles from Amarillo) are charged 75 cents per hundredweight by the handler for moving their milk to Amarillo in his tank truck. This 75-cent charge is in addition to the hauling cost, from their farms to the country plant, which cost is as high as 50 cents per hundredweight for some producers. When milk from the Arnett plant is not needed in the handler's Amarillo plant for Class I purposes it is usually moved to the ungraded portion of the handler's plant in Arnett for manufacturing purposes. Under such circumstances, producers are charged 75 cents per hundredweight on all base milk delivered at the Arnett plant. Producers at the hearing contended that the 75-cent charge is unwarranted in that it exceeds by a wide margin the actual cost incurred in moving producer milk from Arnett to Amarillo.

Producers claimed that an order with appropriate pricing and location differential provisions would tend to correct such inequities as they contend have resulted from the various hauling charge arrangements which now prevail in the market.

The stated base and excess prices paid producers are generally at the option of the handler and not meaningful. Since no complete systematic verification is made of the way milk is utilized, payment to a producer at the excess, or surplus price, for any of his milk does not indicate that such milk was not used for fluid purposes. It was testified that arbitrary methods have been used in some instances in arriving at the percentages of milk to be paid for at the base and excess prices. Most handlers deal with their producers on an individual basis so that it is difficult for producers to ascertain the overall basis used in determining the rate of payment for their deliveries.

The conditions complained of by producers, and herein cited, with regard to the unstable marketing conditions are not peculiar to one or several localities in the marketing area, but apply throughout the area. Moreover, those handlers who would be regulated by the attached order compete with one another throughout substantial portions of the proposed marketing area.

The record indicates that there is a lack of detailed market information relative to the procurement of milk for and disposition of milk throughout the marketing area. Such information is essential to the effectuation of orderly marketing and in achieving a level of Grade A milk production commensurate with consumer demand for Grade A milk. Some data on receipts and utilization of milk for fluid and manufacturing uses were made available for the hearing by various handlers. This information is incomplete with regard to the overall receipts and utilization of milk and milk products by all handlers operating in the area, and it, therefore, does not portray marketing conditions for the whole area.

It is concluded that the issuance of a marketing agreement and order for the Texas Panhandle marketing area would contribute substantially to the improvement of many of the conditions complained of and would tend to effectuate the declared policy of the act. The adoption of a classified price plan based on the audited utilization of handlers will provide a uniform system of minimum prices to handlers for milk purchased from producers and a fair division among all producers of the proceeds from the sale of this milk. The public hearing procedure required by the Agricultural Marketing Agreement Act will provide opportunity for representation of producers, handlers and the public in presenting information on marketing conditions and participating in the determination of prices for milk in the area.

3. (a) *Scope of regulation.* It is necessary to designate clearly what milk and what persons would be subject to the various provisions of the order. This can best be done by providing definitions which set forth the categories of persons, plants and milk products for purposes of classification of milk and of application of other provisions of the order.

Marketing area. The marketing area should include all the territory within the counties of Armstrong, Briscoe, Carson, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Moore, Oldham, Ochiltree, Potter, Randall, Roberts, Sherman and Wheeler, all in the State of Texas.

According to the 1950 census, the population of the 20 counties which constitute the proposed marketing area was

approximately 250,000. It was indicated at the hearing that since 1950 there has been a substantial overall increase in population throughout the area. Because a relatively large portion of the sales of fluid milk in this area is in rural communities and because of the substantial population immediately surrounding the various cities, the marketing area should be defined on the basis of county rather than city boundaries. To a large extent, health ordinances in effect in this area apply to both the county and the cities and towns therein.

Grade A milk products sold for fluid consumption throughout the proposed 20-county area must be approved by health authorities who are governed by health ordinances, practices and procedures patterned after the United States Public Health Milk Ordinance and Code. Movements of milk both in bulk and packaged form between cities and counties take place through reciprocal approval of the respective health authorities. Ratings by the United States Public Health Service are recognized as a basis for approval of outside sources of milk. The degree of similarity of minimum health standards throughout the area justifies uniform regulation for milk marketed throughout the area.

Amarillo, which is centrally located with respect to the marketing area is the largest city in the area. Its 1950 population was 74 thousand and that for the next largest cities—Borger and Pampa—was 18 and 17 thousand, respectively. All of these cities have substantial populations surrounding their boundaries. Amarillo is the principal point at which milk from producers is processed and packaged for distribution throughout the marketing area. The four handlers whose plants are located in Amarillo receive milk from approximately three-fourths of the estimated 500 producers supplying handlers who would be regulated by the proposed order. From these plants in Amarillo, milk is distributed on routes in each of the 20 counties in the marketing area. Three other plants in the marketing area which would be fully regulated by the order and sell milk in competition principally with Amarillo handlers are located in Borger, Pampa, and Herford. A distributor whose plant is located at Elk City, Oklahoma, distributes milk in the proposed marketing area in competition with a number of the aforementioned handlers and it is likely that milk at this plant would be fully subject to the order. Except for a relatively small volume of milk which is sold in a few counties on the outer edges of the marketing area by other plants located outside of the area, all milk distributed in the marketing area would be fully subject to the order.

The marketing area which was suggested in the proposals submitted by various parties to the hearing included, in the aggregate, 51 counties (40 in Texas, 6 in New Mexico and 5 in Oklahoma), an area of more than 53,000 square miles. A preliminary investigation and examination of the available data relative to the supply of milk for, and the distribution throughout the overall area indicated that the intent of the act would be best effectuated by limiting consideration at that time to an order in which the marketing area was defined as not greater than the territory within Potter County and the cities of Borger and Pampa, Texas. The hearing notice which was issued to that effect also provided that if evidence adduced at the hearing indicated that it would not be feasible to promulgate an order for that limited area or that additional territory should properly be included under any proposed order for the Texas Panhandle area the hearing would be reopened for the purpose of giving further consideration to an appropriate marketing area. The hearing was convened on January 31 and continued through February 7, 1955. On the basis of evidence presented at that time, however, it was evident that it would not be feasible to promulgate an order with a marketing area limited to Potter County and the cities of Borger and Pampa. Accordingly, the hearing was reopened on April 12 to afford interested parties the opportunity to submit additional evidence with respect to the marketing area and other provisions of a proposed order. For the purpose of the reopened hearing, consideration was given to a marketing area composed of all the territory within 28 counties, including in addition to the 20 herein designated as the marketing area, the counties of Castro, Childress, Collingsworth, Cottle, Hale, Lipscomb, Parmer and Swisher.

It is neither administratively feasible nor necessary to include all territory in the marketing area in which handlers to be regulated distribute milk. Furthermore, it would not be possible to designate a marketing area of reasonable size which would include all sales outlets of each and every handler that would be subject to regulation. As additional territory would be added, the problems associated with the extension of regulation to distributors that make a substantial portion of their fluid milk sales outside of the marketing area would be increased many fold. Difficulties would be encountered also in the pooling of returns from milk which is only remotely associated with the market. It is necessary, therefore, to define an area which in conjunction with other order provisions will promote orderly marketing of milk of those producers which should be priced and pooled under the order.

The counties of Cottle, Childress, Collingsworth, and Lipscomb, which append to the east and south of the proposed area, and which some handlers urged be a part of the marketing area, are not included in the marketing area herein recommended. The population of these counties is relatively small. There is only one city in these counties of more than 4,000 people (Childress—population 7,600) In Lipscomb, Childress, and Cottle Counties, a portion of the milk sold is already subject to regulation under other Federal orders.

Sufficient milk is sold in Collingsworth and Childress Counties from a distant plant in Oklahoma to extend the regulation to this milk if these counties were included in the marketing area. To do so would extend unnecessarily the scope of the regulation. This would result in the pooling under the order of milk which is not primarily associated with the principal market outlets of the Texas Panhandle area. The main competition for sales outlets of a major portion of the milk at this plant would not be subject to regulation.

The counties of Hale, Swisher, Castro and Parmer, which attach to the south of the proposed marketing area were also considered for inclusion therein. According to the 1950 census, these counties had populations of 28.2, 8.2, 5.4 and 5.8 thousand, respectively. Total sales by Amarillo handlers in this four-county area are about 40 percent of the fluid milk distributed in such area. The percentages of the total distribution by Amarillo handlers is 20 percent in Hale, 65 in Castro and 80 percent in each Swisher and Parmer Counties. This is in contrast to the 20 counties recommended wherein handlers who would be regulated by the proposed order are essentially the only distributors who furnish milk to them.

Plainview (population 14,000), the principal city in Hale County, is 76 miles south of Amarillo and 46 miles north of Lubbock, Tex. Relatively small quantities of milk are distributed in Hale County by Amarillo handlers. The major distributor in Hale County, whose plant is in Plainview, also disposes of significant quantities of milk throughout Swisher and Castro Counties. The largest urban area included in the sales territory of the Plainview distributor is the city of Lubbock (72,000 population) The primary competition of the Plainview distributor, therefore, is not from Amarillo handlers but from Lubbock distributors who in turn distribute no milk in the proposed 20-county marketing area. This is true, not only throughout Lubbock and Hale Counties but also in the less populous counties adjacent to them. Hale County, geographically and from the viewpoint of milk distribution, is more closely associated with the Lubbock area than that of Amarillo.

Historically, prices paid producers at Plainview and Lubbock plants for base milk have been above those paid by Amarillo handlers. At the time of the hearing, the Plainview distributor was paying dairy farmers $5.83 per hundredweight for milk of 4 percent butterfat content compared to $5.55 and $5.58 paid by the two major Amarillo handlers. The comparable price paid to their dairy farmers by Lubbock distributors was $6.05. As stated below in this decision, the average Class I price pursuant to the proposed order for the Texas Panhandle area would have averaged $5.55 per hundredweight for the year of 1954. Although Swisher and Castro Counties are about equi-distant from Amarillo and Lubbock, it is concluded that it is unnecessary to include them in the proposed marketing area at this time. To

incorporate these counties in the proposed marketing area would result in extending regulations to the Plainview distributor who operates primarily in the orbit of the Lubbock distribution area.

Parmer County which lies between Castro County and the eastern border of New Mexico was considered for inclusion in the marketing area. Milk is distributed in the county by distributors from nearby Clovis and Portales, New Mexico. Prices reported to have been paid by these New Mexico distributors have been higher historically than prices paid by Amarillo handlers. At the time of the hearing, the base price paid by such distributors for milk of 4 percent butterfat content was $5.77 per hundredweight. Marketing conditions in Parmer County are similar to those described above for Swisher and Castro Counties and, therefore, should not be included in the marketing area.

It was not shown on the record that the inclusion of Hale, Swisher, Castro, and Parmer Counties in the marketing area is necessary to effectuate orderly marketing conditions in the proposed Texas Panhandle marketing area at this time. The record does not indicate that unregulated handlers operating in these counties adjacent to the marketing area would have a price advantage in the procurement of milk over regulated handlers who dispose of milk in this area. In addition, by providing for a marketing area as proposed herein, the extension of regulation to milk distributors located outside of the marketing area is at a minimum and their operation will not be disturbed with respect to the major portion of their sales area wherein they compete with other distributors who would not be regulated by the proposed order.

Certain handlers testified that they distribute Class I milk in other counties in addition to those proposed to be included in the marketing area. Extension of regulation to those counties and the numerous other counties which had been suggested would bring additional handlers under regulations who in turn have important other sales which would be unregulated. The volume of milk sold outside the marketing area from pool plants as defined under the proposed order is not in itself justification for the inclusion of these counties in the marketing area, nor are marketing conditions in these counties such that their exclusion would be inappropriate or unjustified at this time.

The handlers who would be regulated pursuant to the attached order are in competition throughout the marketing area. The various communities throughout the marketing area in which milk is distributed are closely related marketwise. Uniform regulations through the device of a marketing order wil promote orderly and stable marketing conditions throughout the proposed area.

Definition of plants. The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk products for sale on retail and wholesale routes in the marketing area. Such plants would be defined as "pool plants."

Determining which plants shall be pool plants under the order, and thereby fully subject to regulation, requires that definitive standards be prescribed. Such standards should be clearly set forth in the order and apply uniformly to all plants, wherever located. Pool plant status should not be determined solely on an occasional shipment of milk to the market, or on approval by a specified health authority. Such a method for determining which plants shall be subject to regulation would not provide a workable basis for administering an order for the Texas Panhandle marketing area. In order to effectuate the intent of the act, it is concluded that pool plant status under the order should be determined on the basis of specified performance standards.

As indicated elsewhere in this decision, marketwide pooling of producer returns is considered essential to the stable and orderly functioning of this market. Since a marketwide pool results in payment to all producers on an average utilization for the market, individual handlers are relieved of any responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. Whatever utilization of milk a handler may have, his rate of pay to producers will be the same as that of all other handlers in the market. Thus, it is possible that status with respect to the pool may become a determining factor in guiding a handler's operation.

The scope of pooling or the rules for distributing the returns from Class I sales under the order must be such that the differentials over manufacturing milk values paid by users of Class I milk will serve the purpose for which they are intended. Class I milk prices of the order are fixed at a level which exceeds the value of the milk for manufacturing uses by stated amounts. This premium, or differential, over the manufactured milk price is essential as an incentive to producers for producing milk of the quality and volume required by the market. Extra costs are involved in meeting the sanitary requirements relative to the maintenance of a dairy herd for the production of Grade A milk and in providing milk during the fall and winter months when feed and housing costs are high. Extra costs are involved also on farms since milk for fluid use must be handled through sanitary utensils and facilities, refrigerated and marketed promptly.

The extra costs thus involved for Grade A or fluid milk producers must be borne by that share of the milk which is marketed as Class I milk. Excess or "surplus" milk, although an essential part of a fluid milk business, cannot be expected to return more to producers than a manufactured milk value. The only outlet for reserve milk not needed for fluid use is in the form of manufactured products. Such products must be marketed in competition with similar products made throughout the country.

Since the production of high quality milk involves extra expenses, it is important that the amount of milk produced under Grade A inspection be no more than the minimum necessary to provide the market with an adequate and dependable supply of quality milk. To encourage more than enough production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk not an essential part of the market supply would result in no extra value to consumers.

One of the primary problems, then, in setting up a marketwide pool is to establish rules which will provide for the sharing of Class I sales (Class I differentials) among the producers who are an essential and regular part of the milk supply for the marketing area.

Class I prices must first be set as nearly as possible at the minimum levels which will encourage the necessary amount of milk production and the resulting returns should be distributed in such a way as to assure the market of the maximum dependable supply of quality milk which can be obtained at these prices. In order to do this, provision is made that equalization of market sales should be only to plants meeting reasonable performance standards with respect to supplying their producer milk to the market.

Performance standards should apply uniformly to all plants. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby to participate in the marketwide pool and have its producers share in the Class I sales of the market. Any producer who meets the necessary health department requirements should be permitted, under the order, to sell his milk to plants meeting the standards of qualification. Whether or not plants and producers choose to supply the Texas Panhandle market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Performance standards should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the marketwide equalization. On the other hand, plants only casually, or incidentally, associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize their sales with all handlers in the market. If a milk plant were to be permitted to share on a prorata basis the Class I utilization of the entire market without being genuinely associated with the market, then the premiums or differentials paid by users of Class I milk would be dissipated without accomplishing their intended purpose. If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all regulated handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be compliance with

the necessary health department standards.

The mere circumstance of having obtained health department approval, plus the token shipment of milk, is not sufficient justification for equalizing the sales of such plant with the market. There are many plants having milk of suitable quality for sale in the marketing area which are in no way, or are only incidentally associated with the market. Different health authorities have jurisdiction in various parts of the marketing area. In the absence of performance standards, approval by any one of these authorities or reciprocal acceptance of permits by them would entitle a plant to participate in the equalization pool. A health officer gives his approval to a plant in terms of sanitary consideration. There is no reason to think that he would make his determination of approval only on the economic bases contemplated by the Agricultural Marketing Agreement Act of 1937. Consequently, the standards appropriate to the act for determining pool plant qualification must be set out in the order.

Since reserve milk is an essential part of any fluid milk business there will always be some excess milk in the plants of handlers supplying other markets This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the Texas Panhandle market may depend. If such plants were allowed to sell a token quantity of milk in the marketing area and pool their surplus whenever Class I outlets were not available to them, the result would be that such handler could gain an advantage in paying producers through receipt of equalization payments from the Texas Panhandle pool.

The Texas Panhandle market, however, would gain no advantage from the payment of equalization to such a handler. Such a distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

Performance standards must be flexible enough to allow a plant which is primarily associated with the market to maintain its association with the pool under the changing conditions which occur from year to year, and yet not permit the distribution of equalization payments to plants not part of the essential supply. The performance standards herein provided are such that these objectives should be accomplished.

Because of the difference in marketing practices and in demands for supply of milk from distributing plants as related to supply plants, two sets of performance standards have been provided. A "distributing plant" under the order would be defined as a plant in which milk is processed or packaged and from which any fluid milk product (as hereinafter defined) is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area. "Supply plant" would be defined to mean a plant (except a distributing plant) from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant which is qualified as a pool plant.

In order to qualify as a pool plant, a distributing plant should be required to distribute at least 15 percent of its milk from producers and other pool plants during the month as Class I milk on retail or wholesale routes to outlets in the marketing area.

A distributing plant having more than 85 percent of its business outside the marketing area or in other outlets should not be considered as essentially associated with the market. It is not considered advisable to bring such a plant under full regulation because of the minor share of its business which is in the marketing area. Full regulation in such case would not be necessary to accomplish the purposes of the order, and might well place such plant at a competitive disadvantage in relation to its competitors in supplying the unregulated market.

Such a minimum is necessary also to avoid the possibility that a plant otherwise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distributions of fluid milk products should be qualified as pool plants under this definition. In order to preserve this distinction, a further condition is placed on distributing plants that their total distribution of Class I milk on routes to wholesale or retail outlets, both inside and outside the marketing area, must amount to at least 50 percent of their receipts during the month of milk from dairy farmers and from other plants. Any plant which does not qualify on this basis should be deemed to be primarily a supply plant and its status under the pool should be judged by the standards applied to such plants.

Evidence in the record indicates that most plants doing business in the marketing area dispose of their milk in such a way as to exceed by a considerable margin the minimum performance standards necessary to qualify as pool plants. There may be plants supplying milk to the marketing area which would not qualify for pool status. Such plants would be subject to payments hereinafter discussed if they are not fully subject to regulation.

The performance standards for supply plants to qualify for pool plant status should reflect the fact that the Texas Panhandle market is a deficit market in that producer milk is not adequate on an annual basis for the needs of the market. Throughout most months of the year distributors in the market have needed all of the milk available from producers in order to keep their Class I outlets fully supplied. In order to assure that all the producer milk which is pooled with the market will be available for Class I, supply plant standards should be set at levels which require that the milk will be available. If conditions in the market should change so that Class I outlets are adequately supplied with producer milk and the percentage standards herein recommended are not necessary to assure the availability of such producer milk for Class I sales, the recommended standards should be subject to further review.

Under present circumstances it is concluded that a supply plant should dispose of at least 50 percent of its receipts of milk from dairy farmers in any month in the form of supplemental supplies of fluid milk products, as hereinafter defined, shipped to distributing plants in order to qualify for pool plant status. Unless more than half of the milk from such plant is disposed of in this manner, a supply plant should not under the present conditions in the Texas Panhandle market be considered as primarily associated with the regulated market.

It is recognized, however, that the demand for milk from supply plants may vary seasonally and will be greatest during the season of low production. For sustained periods during the months of flush production supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture, and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the summertime where it must be manufactured in order to maintain the eligibility of supply plants to pool.

To avoid this, provision should be made whereby a supply plant may maintain pool plant status throughout the year if it supplies a substantial portion of its producer milk to distributing plants during the months when milk production tends to be lowest. The proposed standards require that a supply plant provide distributing plants with milk to the extent of 75 percent of its producer milk receipts during the months of September through November to maintain automatic pool status for the months of March through June.

Any distributing plant or supply plant which does not meet the standards for a pool plant should be required to file reports and submit to audits by the market administrator to verify the status of such plant.

Some handlers in the market receive milk from both Grade A and ungraded producers. Where such an operation takes place, it is generally the practice of the handler to maintain the ungraded operation physically apart from that of his Grade A operation. Several of the ungraded operations of such dual plants have historically been associated with the market as important outlets for reserve supplies of milk during the months of seasonally high production. These plants receive such reserve supplies not only from the Grade A operations of the

handler operating such ungraded plants but also from other Grade A plants in the market. The handler who operates an ungraded plant which is in the adjoining or same building as his Grade A plant should not be restricted in the operation of his ungraded plant to any greater degree than the operator of any other ungraded plant. However, proper safeguards should be provided in the order to insure that the ungraded and graded portions of a plant operated by the same handler are maintained as separate entities. It is concluded therefore, that if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it should not be considered a part of a pool plant. However, if the graded and ungraded operations of a plant are not maintained separately, the entire operation of such plant would be considered as that of a pool plant, and all ungraded milk received at such plant would be considered as other source milk received at a pool plant.

Some milk that is distributed in the marketing area is from plants which are fully subject to the classification, pricing and pooling provisions of other Federal milk marketing orders. It is not necessary to extend full regulation under this order to such plants which dispose of a major portion of their receipts in another area and are subject to such regulation. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant; make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

Handler Handler should be defined as any person in his capacity as the operator of one or more distributing or supply plants. The definition should also include any cooperative association with respect to the milk from producers diverted for the account of such association from a pool plant to a nonpool plant.

The handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and payment therefor. A cooperative association which markets the milk of its producer members may for short periods of time need to divert producers' milk from pool plants to nonpool plants. If the association is defined as a handler for such milk, even though it has no plant, the producers whose milk is so diverted will continue to receive the uniform prices under the order and their milk production will be available for fluid use when needed in the fall months or at other times.

In case a person operates more than one pool plant, he should be a handler with respect to the combined operation of such plants. If the handler operates a plant not associated with the regulatory market, he would not be a handler with respect to such plant.

Producer-handlers and operators of distributing plants and supply plants which do not qualify as pool plants should be considered handlers in order to require such persons to report to the market administrator as is needed to determine their status. With regard to distributing plants, which are nonpool plants, such reports also are necessary to determine the amount payable by the operator of such plant on unpriced milk distributed in the marketing area.

Producer. Producer should be defined as any person, other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority and such milk is received at a pool plant.

When producer milk is not needed in the market for Class I purposes, the movement of such milk to nonpool plants for manufacturing purposes should be facilitated. Allowing for unlimited diversion during those months when reserve supplies of milk are heaviest will contribute to this end. Unlimited diversion is neither necessary nor desirable during the other months of the year when milk of producers regularly associated with the market is needed to supply the Class I needs of the market. It is necessary, however, to provide for limited diversion during such months to enable handlers to divert producer milk on such occasions as weekends or holidays when the milk is not needed in the market for Class I purposes.

Provision should be made so that the milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant any day during the flush production months and on not more than 15 days during any other months and still retain producer milk status under the order. Diverted milk shall be deemed to have been received at the plant from which it was diverted.

Producer-handler. Producer-handler should be defined as any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers. The order is not intended to establish minimum prices for such operators, but they should be required to make reports to the market administrator. Such reports are necessary to make a determination as to whether the operator is a producer-handler and to facilitate accounting with respect to transfer of milk from other handlers.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Any supplemental supplies of milk which may be obtained from other handlers may, by virtue of the type of operation involved, be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the pool plant(s) of a handler after the allocation of shrinkage on producer milk. Milk disposed of to another handler by a producer-handler must be presumed to be surplus to the operation of the producer-handler.

Fluid milk product. Fluid milk product should be defined as milk, skim milk, buttermilk, milk drinks, cream, or any mixture in fluid form of skim milk and cream (except storage cream, aerated products, eggnog, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers). The items designated as fluid milk products pursuant to this definition are those products which when disposed of by handlers are considered as Class I milk.

Other source milk. Other source milk should be defined as all skim milk and butterfat contained in fluid milk products utilized by the handler in his operations except milk received from producers and fluid milk products received from other pool plants. Thus, other source milk would represent skim milk and butterfat which may not be subject to the pricing provisions of this order. It will include all milk products from plants other than pool plants and all manufactured dairy products from any source which are reprocessed or converted into another product during the month. It will include those manufactured products from a plant's own production which are made and are reprocessed or converted into another product during the same or a later month.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, such skim milk and butterfat was used or disposed of as either Class I milk or Class II milk.

Under an order, only producer milk is priced. Milk is received, however, at pool plants directly from producers, from other handlers and from other sources. Milk from all of these sources is intermingled in handlers' plants. It is necessary, therefore, to classify all receipts of milk to afford a means to establish the classification of producer milk and apply the classified price plan.

The products which should be included in Class I milk are those required by health authorities in the marketing area to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded or manufacturing milk price. This higher price should be at such a level that it will yield a blend price to producers that will encourage production of enough milk to meet market needs.

Excess milk not needed seasonally or at other times for Class I use must be

disposed of for manufactured products. These products are less perishable and must be sold in competition with products made from ungraded milk. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated and reconstituted skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored) cream, and any mixture in fluid form of skim milk and cream (except storage cream, aerated cream products, eggnog, ice cream mixes, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers), and skim milk and butterfat not accounted for as Class II milk.

Class I products which contain concentrated skim milk solids such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, would be included under the Class I milk definition. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans would not be considered as concentrated milk.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; aerated cream products and eggnog; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened), nonfat dry milk solids; dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk. The health ordinances applicable in the marketing area do not require that these products be made from approved milk.

Cream which is placed in storage and frozen should be classified as Class II milk. Such cream is intended primarily for use in ice cream and ice cream mixes. Any frozen cream or other Class II products which are used later in a pool plant would be considered as other source milk at the time of such use and assigned to the lowest price utilization in the plant. The skim milk and butterfat in any fluid milk product which is disposed of and used for livestock feed should be classified as Class II milk.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. The accounting procedure will be facilitated by providing that month-end inventories of all fluid milk products be classified in Class II milk, regardless of whether such products are held in bulk or in packages. Inventories of such products on hand will then be subtracted under the proposed allocation procedure from any available Class II milk in the following month. The higher use value of any fluid milk products in inventory which are allocated to Class I milk in the following month should be reflected in returns to producers. The mechanics of the attached order provide for the reclassification of inventories on that basis.

Inventories of products designated as Class I milk on hand at a pool plant at the beginning of any month during which such plant becomes a pool plant for the first time should likewise be allocated to any available Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler his total established utilization of skim milk and butterfat, respectively. Shrinkage not in excess of 2 percent of the handler's receipts of producer and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other pool plants because shrinkage on such milk will be allowed to the transferring handler. A plant which is operated in a reasonably efficient manner, and for which complete and accurate records of receipts and utilization are maintained, should have total shrinkage of less than 2 percent of total receipts. It is concluded that shrinkage which is not more than 2 percent of total receipts of producer milk and other source milk should be classified as Class II milk and any shrinkage in excess of this quantity should be classified as Class I milk.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of milk products received and disposed of by a handler, can be determined through certain testing procedures. Some of these products, such as ice cream and condensed products, present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable, in the case of such products, to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of any concentrated milk product such as condensed milk or nonfat dry milk solids should be based on the pounds of milk or skim milk required to produce such product.

Butterfat and skim milk used to produce Class II products should be considered to be disposed of when so used. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator. Class II products from any source used in the production of any product including products in Class I milk should be considered to be a receipt of other source milk. This will maintain priority of assignment of current receipts of producer milk to Class I utilization.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible for establishing the classification of, and making payment to producers for, such milk. Fixing responsibility in this manner is a practice which is consistently followed in regulated markets and is necessary to effectively administer the provisions of the order. The operator of a plant at which milk is first received from producers is the person with whom contractual relations have been made by producers or their representatives. It would be unreasonable to expect producers to look elsewhere for payment for their deliveries. Moreover, producers would be without adequate protection if the order did not prescribe specifically which handler shall be responsible for the classification and payment of their milk. Except for such limited quantities of shrinkage, which under certain conditions (as set forth elsewhere in this decision) may be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use. It is necessary to place the burden of proof on the handler to establish the utilization of any milk as other than Class I.

Transfers. Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, some Class I items may be disposed of to other plants for Class II use. Classification of any product so transferred to another plant should, under certain circumstances, be determined according to its utilization in the plant to which transferred.

Milk, skim milk, cream, or other fluid milk products transferred by a handler to the pool plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee-plant for such assignment after prior allocation of shrinkage and other source milk. On the other hand, if the transferring handler had other source milk during the month, the assignment of fluid milk products transferred to another plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while producer milk is allocated to Class II milk in the transferee-handler's plant.

Milk, skim milk and cream disposed of to a nonpool plant, including milk which is diverted (sent directly to the nonpool plant from the producer's farm) should be classified as Class I milk, unless cer-

tain conditions are met. The operator of the nonpool plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the receipt and utilization of milk in such nonpool plant. Provision for verification by the market administrator is reasonable and necessary to effectuate the clarification procedure and assure that producer milk will be paid for in accordance with its utilization. In order to classify such diversions as Class II milk the fluid milk products disposed of from the receiving nonpool plant should not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers directly supplying such plant. This recognizes the principle that is incorporated in this order that the dairy farmers regularly supplying such a plant should have prior claim to supply the milk for fluid distribution in this market and at the same time assures that producer milk which is diverted for Class I use will be paid for accordingly. The provision for classifying milk, skim milk or cream as Class II milk should not be extended to include milk transferred to nonpool plants located more than 300 miles from the nearest point in the marketing area. The area thus described is adequate to dispose of reserve milk for Class II uses. Fluid milk products moving greater distances are normally for Class I uses.

When milk or skim milk in bulk has been transferred or diverted to a nonpool plant located not more than 300 miles from the nearest point in the marketing area, the market administrator is required to verify the utilization claimed by such nonpool plant. It may reasonably be expected that the market administrator will be able to make such verification within such "surplus disposal area" without incurring undue expense. It would not, however, be administratively feasible or otherwise justifiable to have a surplus disposal area of unlimited expanse or to cover a geographical area which is larger than that provided herein. Making such provision might well tend to make unreasonable demands on the market administrator in connection with the verification of occasional or irregular shipments to nonpool plants located beyond the area wherein Texas Panhandle handlers normally dispose of reserve supplies of milk for Class II purposes.

As stated elsewhere in this decision, any fluid milk product transferred to a producer-handler should be classified in Class I and should not be subject to reclassification.

Allocation. The order class prices apply only to producer milk. It is necessary, therefore, if a plant has butterfat or skim milk other than that received in milk from producers, to determine the quantities of milk in each class to be assigned to producers. It is recognized that some supplemental milk may be needed when supplies are short in the Texas Panhandle market.

Other source milk from unregulated sources should be assigned to Class II milk first. The plants supplying such milk may not have purchased such milk from dairy farmers on a classification and use basis and it is not feasible to determine this or other conditions of sale. There is no assurance that such milk would not be used to displace producer milk in Class I to the advantage of the purchasing handler.

The milk of producers who are primarily engaged in supplying the Texas Panhandle market, however, should be given priority in the assignment to the Class I utilization at regulated plants. This is necessary to insure the stability of the classified pricing program of the order. If the order permitted handlers to obtain other source milk whenever it was advantageous to do so for Class I use while producer milk in the plant was utilized in Class II, the order would not be effective in carrying out the purpose of the act. Also, the market would be deprived of a dependable supply of milk. Much of the supplemental milk has in the past been brought in from other Federal order markets. Handlers bringing in such milk have assisted the market in keeping Class I outlets fully supplied.

When such supplemental milk is actually needed and is obtained under conditions which assure that it was paid for at Class I prices under another Federal order, a more limited priority of assignment to Class I should be permitted under the order. Provision should be made, therefore, that 5 percent of producer milk may be assigned to Class II before any assignment of Federally regulated other source milk to such class. This will permit a handler whose producer milk supplies run short to bring in milk from other Federal markets and have it assigned to Class I, even though he has a small amount of reserve milk in his plant. Such other source milk will be assigned to any Class II milk in excess of 5 percent of producer milk. This is necessary to assure producers that no more than the necessary reserve supplies will be allocated to Class II use when milk is imported from other regulated markets.

If, after making the various assignments of skim milk and butterfat pursuant to the allocation provisions of the order, the total of all Class I and Class II milk assigned to producer milk exceeds the amount of producer milk reported to have been received by the handler for whose pool plant the computation is being made, such "overage" should be assigned first to the available Class II utilization and any remainder to Class I. Such overage should be paid for by the handler at the applicable class prices.

(c) *Class prices.* Class I prices should be established at a level which, in conjunction with the Class II prices hereinafter concluded to be appropriate, will result in returns to producers high enough to maintain an adequate but not excessive supply of quality milk to meet the requirements of the marketing area. If prices remain too low, insufficient quantities of milk will be produced to assure that the Class I market will be fully supplied. Conversely, if prices are too high, production will be overstimulated and consumption curtailed. This would cause more milk to be produced than is needed to satisfy the demand for Class I milk, resulting in the development of unnecessary and uneconomic surpluses.

When milk produced locally is insufficient to meet the Class I needs of the market, supplemental supplies of Grade A milk are purchased by handlers in the marketing area from plants outside the regular supply area. Prices of this milk fluctuate to a considerable extent with the value of milk produced for manufacture. Other items which determine the prices at which such milk will be available to Texas Panhandle handlers include the cost of transporting such milk to the marketing area and the alternative outlets for such milk.

Proper recognition must be given the prices at which alternative sources of supply are available, especially since any milk plant wherever located may, by meeting the prescribed qualifications, become a pool plant under the order. It is necessary, therefore, that the Class I prices in the proposed Texas Panhandle milk marketing order should not be set at levels which will bring the cost of such milk above the cost of obtaining regular and dependable Grade A milk supplies from other areas.

The Class I price should be fixed in relation to the general level of the value of milk used to produce manufactured dairy products. To achieve this end a basic price should be adopted which will reflect this general level and to which differentials should be added to result in the appropriate Class I price. Such basic price should be the higher of (a) the average of the prices paid by the 13 "Midwestern Condenseries" or (b) a price computed on the basis of the daily quotations for 92-score butter at Chicago and the carlot prices for nonfat dry milk solids for human consumption, f. o. b. manufacturing plants in the Chicago area.

The purpose of such basic price is to give consideration to the national economic factors underlying the price for milk and manufactured dairy products and which in turn also influence the local market prices. Prices for milk used for fluid purposes in competitive markets are related to the prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is countrywide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. For these reasons, fluid milk markets have used butter, nonfat dry milk solids, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk, transportation costs to the fluid market, and to furnish the necessary incentive to get such milk produced.

The basic formula proposed herein is similar to that used in many other Federally regulated markets and the price resulting therefrom will usually be the same as or will closely approximate the

basic formula price which is applicable in determining the Class I price in the various Federal orders in the Southwest. The price computed under the formula would have averaged $3.47 for 1954. The differential to be added to this basic price in determining the Class I price would be applicable to all skim milk and butterfat included in the Class I definition of the proposed order. Consequently, the total quantities of producer milk classified in Class I under the order may be significantly greater than the quantities of producer milk now allocated to Class I under the various classification schemes now in effect in the market. It is concluded that the differentials to be added to the basic formula price should be $1.85 for the months of March through June and $2.15 for all other months.

The seasonality of the Class I differential herein proposed—30 cents less in March through June than in other months—gives greater incentive to the production of milk for the market in those months when it is needed for Class I purposes. It also serves to provide price changes more nearly in accord with seasonal price changes in other markets both regulated and unregulated.

The average Class I milk price which would have been provided under the proposed formula for the year 1954 is $5.55. The prices paid producers at the time of the hearing by the two principal handlers in the market for base or "Class I milk" of four percent butterfat content delivered to their plants in Amarillo were $5.55 and $5.58, respectively. It was indicated at the hearing that these prices are representative of the Class I or base prices paid by the other handlers in the market at their plants in the marketing area.

Evidence at the hearing indicated that eight handlers receiving milk from approximately 500 Grade A producers would be fully subject to regulation under the order. Detailed information relative to the combined receipts and Class I disposition of six of these handlers for the year 1954 was presented at the hearing. These six handlers, who receive milk from approximately five-sixths of the producers on the market, distribute Class I milk throughout the marketing area from plants in Amarillo, Borger, and Pampa. Producer deliveries of raw milk to the plants of these handlers in 1954 totaled 81.5 million pounds, and Class I disposition from these plants in the same period was 77.5 million pounds.

Producers proposed a Class I differential of $2.25 compared with the average monthly differential of $2.05 which is provided in the attached order. Prices paid their producers by handlers in nearby markets must be considered in establishing the Class I price under the Texas Panhandle order. Handlers who would be regulated by the proposed order compete for business in some areas with handlers regulated by other Federal orders. In addition, substantial quantities of milk are at times moved into the market from plants subject to such other orders. In 1954 supplemental supplies of milk for Class I purposes were purchased by local handlers from plants under the Oklahoma City, North Texas, Ozarks (Springfield, Missouri), and Chicago Federal orders.

In the absence of regulation, the value of Grade A milk f. o. b. the marketing area is not greater than the price of such milk in the nearest major production area from which substantial quantities of milk are available plus the cost of transporting the milk to the market. More supplemental supplies of milk in 1954 were moved to the Texas Panhandle market from the Producers' Creamery Company plant at Springfield, Missouri, than from any other source. The Springfield plant is in the Ozarks marketing area and the Class I differentials under that order range from 63 cents for the months of April, May and June to $1.08 for the 3 fall months of lowest production. The average monthly Class I differential applicable under the Ozarks order at Springfield is 78 cents. The cost of moving milk the 580 miles from Springfield to Amarillo in tank trucks of 27,500 pound capacity is $1.02 per hundredweight. This transportation cost plus the average Class I differential under the Ozark order is 25 cents less than the average Class I differential of $2.05 which is provided in the attached order. The margin of 25 cents per hundredweight is less than is customarily charged as a receiving, cooling and handling allowance on milk moved from Springfield to the Texas Panhandle marketing area.

The Class I price under the Federal order for the North Texas marketing area is widely accepted and used as a basis for determining the Class I prices in various other milk marketing areas throughout Texas. Large quantities of milk throughout the State are sold on the basis of the North Texas Class I price, and some of this milk is distributed in competition with milk from the plants of Texas Panhandle handlers. The average monthly Class I differential under the North Texas order is $2.13. Dallas, which is the largest city in the North Texas marketing area, is 361 miles southeast of Amarillo.

Several handlers who would be subject to the Texas Panhandle order distribute milk at some points outside the marketing area in competition with a handler subject to the Central West Texas order. The applicable Class I price under the Central West Texas order at two of the principal cities in that marketing area, Abilene and Midland, is the North Texas Class I price plus 25 and 45 cents, respectively. Midland is 260 miles directly south of Amarillo. Abilene, which is 146 miles east of Midland, is 270 miles from Amarillo.

Reference at the hearing was made to the competition from milk priced under the Southwest Kansas order. Dodge City, Kansas, which is the largest city in the Southwest Kansas marketing area, is 244 miles north of Amarillo. There was no evidence at the hearing to indicate an overlapping of the production areas for that market and for the Texas Panhandle market. On the distribution side, a Dodge City handler distributes a relatively small quantity of milk in several communities near the northern boundary of the proposed marketing area.

The Class I differential under the Southwest Kansas order is $1.65. After giving consideration to the transportation costs, handlers under the Southwest Kansas order would have no advantage in competing with local handlers for sales in the Texas Panhandle marketing area, and local handlers would have no incentive to replace producer milk with bulk tank shipments from plants under the Southwest Kansas order. The average monthly differential of 40 cents by which the Class I differential under the Texas Panhandle order exceeds that of the Southwest Kansas order will provide a relationship of prices which is economically sound. This is also very near the historical relationship of prices between the two markets.

Consideration at the hearing was given to making provision in the order for adjusting the Class I price upward or downward each month as supplies of producer milk changed in relation to the demand for Class I milk in the market. A supply-demand adjustment provision in the order to reflect such changing conditions could be helpful in providing proper price adjustments within the market and a proper price relationship between the Texas Panhandle market and other markets.

It was contended at the hearing that any supply-demand formula which would be provided in the order should not be made effective until the order has been in operation for at least 12 months. It would not be feasible to make provision in the order on the basis of the information now available for a supply-demand formula to become effective a year after the inception of the order. It was evident at the hearing that adequate data were not available which would serve as a proper basis to formulate an appropriate supply-demand adjustment provision. Such a provision could be better formulated after the order had been in effect for a reasonable period of time and the necessary detailed statistical data were available.

It is concluded, therefore, that a supply-demand adjustment provision should not be incorporated in the order at the present time. However, such a provision should be given consideration at an amendment hearing at such a time after adequate experience in the operation of the order has been realized and the statistical data necessary for its proper formulation are available. At such a hearing it would be timely and appropriate to review in a detailed manner the Class I pricing formula which is herein provided. Provision is made therefore that the Class I pricing formula in the attached order shall not be effective beyond August 31, 1957. Such a provision would insure a reappraisal of the level of the Class I price and the components used in its determination within a reasonable period after the order became effective.

The Class I price should be announced by the fifth day of the month. In order to do this, it is necessary to use price quotations for the preceding month in calculating the basic formula price.

Class II price. Some milk in excess of Class I requirements is necessary in order to maintain an adequate supply of

fluid milk for the market on an annual basis. The Class II price for such excess milk should be maintained at the highest level consistent with facilitating its movement to manufacturing outlets when it is not needed in the market for Class I purposes. The Class II price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I needs may arise from time to time. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

Most handlers in the proposed area have extremely limited facilities for handling any milk above that needed for their day to day fluid operations. A few handlers manufacture such by-products as cottage cheese and ice cream mix for the needs of their own trade. However, most milk not needed for fluid distribution in the market must be transferred or diverted from the plant at which it is usually received to a plant having adequate manufacturing facilities.

During the spring months of heavy production producer milk which is not needed by handlers is moved to manufacturing plants after being received by the handler or is diverted directly to the manufacturing plant for the account of the handler. Returns to producers for such milk have been that which the handler realized in its sale to the manufacturing plant. Payments to producers at other times for "overbase" milk which was utilized or disposed of for manufacturing purposes followed no consistent pattern.

Prices paid by manufacturing plants may differ because of changes in the relative prices of the products which they manufacture. Handlers will dispose of excess milk to those plants which are paying the highest price at the time of such disposal. Because of small volume and inefficient means of handling, it is possible that some handlers may, at times, incur losses in handling their necessary reserve supply of milk. The handling of such reserve milk is incidental, however, to the handling of fluid milk.

The pricing of milk in the months of flush production should be at the rate at which milk produced for the market will be handled so that such seasonal reserves will not disrupt the orderly marketing of milk. The level of such pricing should not be below that paid for ungraded milk, since such pay prices represent the lowest value in the milkshed for milk for manufacturing purposes. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk throughout the months of flush production. During the months of short production, a higher level of prices for Class II milk should be provided in the order so as to encourage the transfer or allocation of the available supplies of milk from manufacturing uses to fluid uses.

The Class II price for the months of March through June should be the average of the prices paid for milk received from dairy farmers by selected manufacturing plants in the area. The four such plants whose pay prices should be so used are Plains Creamery, Arnett, Oklahoma, Price Creamery, Portales, New Mexico; Quint County Creamery, Mangum, Oklahoma, and Swisher County Creamery, Tulia, Texas. These plants are the principal buyers of ungraded milk in the milkshed of the proposed marketing area.

For each of the months of July through February the Class II price should be the higher of either the price computed pursuant to a butter-nonfat solids formula which will reflect changes in manufactured product values in the general area; or the average of the prices paid by the four local manufacturing plants.

For the year 1954, the Class II price herein proposed for milk containing 4 percent butterfat would have averaged $3.26 per hundredweight. The comparable average price paid by the four local manufacturing plants during the same period was $2.93. However, during those months when the quantity of Class II milk on the market is largest, March through June, the Class II price (based on the paying price of the four local manufacturing plants) would have averaged $2.88 in 1954.

Provision is made in the attached order to permit a handler to divert directly to manufacturing plants any milk not needed in his own operations. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk throughout the year.

Butterfat differentials. As pointed out previously herein, it is concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value due to variations in the butterfat content of each product. The values resulting from multiplying the average price of 92-score butter at Chicago by 0.120 for Class I milk and by 0.110 for Class II milk will provide an appropriate basis for adjusting such prices in this market. The use of butter prices in this manner will reflect changes in the central market prices of butterfat and follows standard practices in most fluid milk markets for adjusting for butterfat variations. The basing point from which such adjustments are made should be 4.0 percent butterfat. This is the basis now used in the Texas Panhandle marketing area.

In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I differential at the same time that the Class I price is announced.

Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will not know the exact cost of such milk as it is utilized, they will know that their cost will tend to follow movements in daily or weekly dairy product prices and in any event the cost of milk of their principal competitors for manufactured product outlets.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class prices provided in the order. The producer butterfat differential in no way affects the handlers' cost of milk but merely prorates returns among producers whose milk differs in butterfat test.

It was indicated at the hearing that the average test of producer receipts exceeds that of Class I sales. The butterfat differentials recommended herein for Class I and Class II milk should tend to encourage the production of milk with a fat test more in line with the fat requirements of the market.

Location differentials. It was proposed at the hearing that handlers be allowed a location differential with respect to milk moved from a receiving plant to a processing plant.

The record discloses that some of the milk normally supplied to the marketing area is received by handlers at a distance from the plant which processes and distributes the milk. In addition, some of the milk is brought to the marketing area in packaged form.

It is customary for handlers to pay producers delivering milk to country receiving stations a lesser price per hundredweight than is paid producers delivering directly to bottling plants. To the extent that this represents a lower price because of the location of the milk, such difference in value should be recognized under the order. Location differentials should be included in the pricing arrangements to recognize differences in the value of producer milk in relation to its location with respect to the market.

The principal supply plant to which the location differential herein provided would be applicable is at Arnett, Oklahoma, 150 to 155 miles from Amarillo. Milk is received at this plant from approximately 100 Grade A producers and is moved by the handler in tank trucks to his processing plant in Amarillo. At such times that this milk is not needed by the handler in Amarillo for Class I purposes it is utilized by the handler in his ungraded operation at Arnett or otherwise dispose of for manufacturing purposes.

Producers delivering to the Arnett plant are paid 75 cents per hundredweight less than producers delivering directly to the same handler's plant in Amarillo. The handler proposed that the 75-cent rate be incorporated in the order as an appropriate location differential on milk received at the Arnett plant. He contended that although this

amount is greater than the actual cost of moving the milk from Arnett to Amarillo, such charge is necessary in order to compensate him for having established, and to enable him to continue to maintain, the receiving station facilities at that location. In addition, he contended that incorporation of the 75-cent rate within the framework of the order is justified since that is the rate which has been maintained for some time.

Various suggestions were made at the hearing relative to location differentials other than the 75-cent rate proposed by the handler. One of these would provide a location differential of 35 cents applicable to the Arnett plant and not otherwise make any provision for a location differential in the order. Another proposal would use as a basis for a location differential the rates prescribed by the Railroad Commission of Texas on intrastate shipments of milk in bulk tank trucks by regulated carriers. For a 150 to 155-mile haul, the distance from Arnett to Amarillo, the rate fixed by the Commission is 50 to 52 cents per hundredweight. The rates for the same distance charged by the Dairyland Transport Corporation, Springfield, Missouri, a company specializing in hauling milk and milk products in tank trucks, are 29 to 31 cents per hundredweight.

Producers shipping to the Arnett plant are an integral part of the supply for the Texas Panhandle market. If this plant were closed as a receiving station for the Amarillo market, producers would be required to ship directly to Amarillo or to find another market for their Grade A milk. It was not shown that such other markets are readily available to these producers. Neither was it shown that it would be more practicable for the producers now shipping to Arnett to ship directly to the handler's plant in Amarillo.

In view of the above stated considerations, the Class I price at a pool plant should be reduced by 35 cents per hundredweight of milk for the first 100 miles and by 1.6 cents per hundredweight of milk for each additional 10 miles or fraction thereof that such plant is from the primary center of consumption of the proposed area. The City Hall of Amarillo, Texas, affords the most appropriate point in the marketing area for the market administrator to determine the rates applicable at such plants.

The location differential which is provided in the attached order is economically sound and will be equitable to all handlers wherever located. The proposed rates are representative of the cost of hauling milk by an efficient means to the market. To make provision in the Texas Panhandle order for a location differential the applicability of which would be limited to one and only one plant or to provide a differential predicated solely on the historical experience of one plant in the market without giving consideration to all other relevant factors would be neither feasible nor justifiable.

Prices paid producers supplying plants to which location differentials apply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered.

No adjustment should be made in the Class II price because of the location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk in the most advantageous possible manner. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk. To do otherwise would remove part of the incentive for keeping handling costs at a minimum. To insure that milk will not be moved unnecessarily at the expense of producers under the marketwide pool, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after a maximum assignment of 5 percent of the direct producer receipts to Class II milk at such plant.

Payments on unpriced milk. The order should provide that payments be made into the producer settlement fund of the marketwide pool with respect to milk not priced under the order which is allocated to Class I milk in a pool plant.

Testimony at the hearing indicated that substantial quantities of milk which would not be subject to the pricing provisions of the Texas Panhandle order are being sold in the proposed marketing area. Without the payment provisions on unpriced milk which are herein provided the sale of such milk in the marketing area would seriously jeopardize the successful operation of the classified pricing provisions of the order.

Receipts of milk in excess of actual Class I disposition is necessary to operate a fluid milk business. Because of seasonal fluctuations in production not matched by seasonal changes in consumption, this excess is particularly large in certain months of the year. Such excess or reserve milk is surplus to the fluid operation, and can be marketed only in manufactured form in competition with products made from ungraded milk produced in the major low cost dairying areas of the United States. Thus, such reserve milk yields a considerably lower return than is necessary to sustain graded milk production in the Texas Panhandle milkshed. Likewise, it yields a lower price than would be necessary to purchase graded milk on a regular basis in other supply areas and pay the cost of transportation to the Texas Panhandle marketing area.

The existence of this reserve Grade A milk, which must be marketed at a lower price, is the primary cause of the instability which may affect all fluid milk markets. If a handler is able to use milk he purchases at Class II prices for Class I use, he stands to gain advantage, but in so doing he demoralizes the Class I market price.

One of the paramount reasons why regulation of prices is considered necessary in the Texas Panhandle market is to insure that the position of handlers paying producers a Class I price for fluid milk will not be undermined by other handlers using the market's excess or surplus producer milk for Class I use. It is equally important that the Class I market be protected from the use of seasonal or other excess milk from other markets as well as from its own surplus. If the order failed to provide such protection, a handler could curtail purchases of producer milk to his own advantage and secure low cost reserve supplies from other markets for Class I use.

Seasonal supplies are easily and cheaply acquired during the months of flush production when most markets are receiving milk greatly in excess of their current fluid needs. If adjacent milksheds dispose of seasonal surplus in each other's Class I markets, the result will soon be market chaos, particularly in the spring months. Class I prices would be demoralized and the rate of milk production for both markets on a permanent basis would be seriously impaired. Such marketing conditions would be contrary to the stated purpose of the act. It is necessary, therefore, in order to insure the effectiveness of the classified pricing program and to promote orderly marketing, that some measure be taken to remove the incentive which handlers have to acquire unpriced milk and undermine the Class I pricing structure.

One possible alternative would be to extend price regulation in accordance with order provisions to all milk plants which supply milk either directly or indirectly to the Texas Panhandle market. This alternative is both economically and administratively unacceptable within the framework of the proposed order. It would open the market pool to anyone who applied merely a token quantity of milk to a plant serving the marketing area. The objections to such distribution of pooled funds was discussed earlier in the decision in connection with the recommendations for standards of pool participation.

Such regulation would have the further disadvantage of being cumbersome, expensive, difficult to enforce, and it would interfere with the acquisition of needed supplemental milk supplies for the market. It would not be possible or desirable to limit the number of plants or area from which milk might be purchased. However, in order to bring such plants under regulation, it would be necessary to establish individually tailored transfer and allocation rules according to the various plant locations, markets and supplies. Milk would have to be accounted for in its disposition from these plants to its various destinations and uses to determine classification. Also, it would be necessary to ascertain sources of supply other than receipts directly from farmers and de-

termine what priority should be given such supplies in the allocation of Class I milk. In the case of a plant which made an incidental shipment of milk, perhaps at the end of the month, or in the case of such items as storage cream, additional complications would be involved. Earlier inventories as well as sales would have to be ascertained and classified. Classification might depend upon transactions made in the past concerning which adequate records were not kept. Producer prices would be fixed for milk already purchased and sold. Required record keeping and auditing problems would be greatly multiplied with such regulation.

It is concluded that it is not feasible to price all milk which may enter the market and that provision is necessary in the order which will insure against the displacement of producer milk by such unpriced milk for the purpose of cost advantage. There is no choice as to what type of provision can be used for this purpose. The only alternative available under the order is to levy a charge against unpriced milk used in Class I to whatever extent is necessary to remove the advantage there may be in using such milk instead of priced milk from producers.

Several problems are involved in formulating the provisions for any charge or payment designed to bring about the removal of the advantage of using unregulated milk. The rate of payment for this purpose must not be so low that it will permit a handler to have temporary or permanent advantage through sale of unpriced milk as Class I in the marketing area. It should not be so high that it will penalize suppliers of unpriced milk who offer milk needed by the market and who are not in a position of gaining an unfair advantage by such sale of milk. The payment must be provided for in a manner which is administratively feasible and which does not bring about unjustified administrative inconvenience or expense.

One method for setting the rate of payment would be to ascertain the actual cost to the regulated handler of milk which he purchases from unregulated plants and charge as a compensation payment any amount by which the Class I price exceeded the cost of the unregulated milk used in Class I. Such a scheme is not sound from the standpoint of administrative feasibility and it would not necessarily remove the advantage in using unregulated milk even though it were feasible. Rates at which milk sales are billed may not represent actual cost to the purchaser. In the case of a firm which owns or controls pool plants under the proposed order as well as unregulated plants, the rate of payment from one plant to another, if any were made, would have little or no significance. If such a provision were to be adopted, the billing rate might be deliberately set in each instance at a level which would avoid any payments without regard to the value of the milk. Thus, the intended effect of this provision might be circumvented by merely adjusting the bookkeeping procedure.

A handler having no unregulated plants would no doubt find it possible to arrange a billing price on purchased milk which would avoid any compensatory payments. If a handler had the choice of paying money to the market-wide pool or to a person from whom he was buying milk, he would probably choose the latter. A kick-back arrangement or offsetting purchase and sale might readily be arranged, perhaps through a third party. Since the billing price for milk would be a self-serving figure for both parties to the transaction, it would be virtually impossible to ascertain that it represented the true cost to the purchaser.

If the stated purchase price were a true cost, it would still not fulfill the purpose of removing the advantage to unregulated milk to base compensation payments on the difference between such price and the Class I price. Sales of priced milk between regulated handlers ordinarily take place at the class price plus a handling charge. This handling charge varies according to circumstances, but represents a payment to the receiver of the milk to offset his purchasing and receiving costs, such as dumping, weighing, testing and cooling the milk, paying producers, and other costs of doing business. The cost of receiving the milk in bulk form is somewhat less than receiving it from producers. Thus, in order to remove the advantage to unregulated milk, it would be necessary to provide that the cost of bulk unregulated milk be somewhat more than the Class I price. It would be exceedingly difficult to determine what this rate should be, particularly in the case of products such as condensed skim milk and cream, where the allocation of additional processing costs among more than one end product is involved. Furthermore, the marketing agreement act does not give the Secretary express authority to enforce prices other than producer prices. This scheme for removing the advantage in using unregulated milk is rejected for these reasons.

Another suggested method is to determine the price actually paid dairy farmers by the unregulated milk dealer who first received the milk, and base the compensation payment thereon. This method has several shortcomings. The various payment plans which are used in paying farmers for milk would make the determination of pay rates to individual farmers an exceedingly difficult task. For example, unregulated milk dealers may use varying rates of butterfat differentials, different types of base rating plans, or payments based on volume of deliveries. Various devices such as these for paying farmers often make it impossible to determine actual rate of payment per hundredweight of milk. In this case as with bulk milk purchases stated prices are often illusory. The cost of the milk itself may be modified by unrealistic charges for various items of supplies and services. A milk dealer affected by such a provision might increase his producer price and increase hauling rates an offsetting amount. Whatever payment plan an unregulated milk dealer may use is a matter of his own choice and it can be changed readily. Pricing or paying arrangements he may have with farmers are not subject to regulation. Calculation of compensation payments according to this suggestion would give any affected dealer special incentive to resort to these special payment plans suggested here or others he might devise for purposes of evading payments.

The further problem of establishing the rate of payment to be required would in itself preclude use of the actual cost of the milk purchased from farmers by unregulated handlers as a basis for calculating the payment to be required. If a payment were to be required on the unregulated milk based on the difference between prices paid farmers and some other price, the unregulated handler could avoid payments by increasing his prices to farmers. This would give an unregulated handler the advantage over regulated handlers in that a regulated handler has no choice as to what he is required to pay producers nor how this money is to be distributed. Likewise, it would enable unregulated suppliers to dispose of Class I milk in the marketing area with no obligation to equalize such sales with other suppliers of the market.

Even though the rate of payment to producers for all milk might be known, it would still be impossible to ascertain the rate of payment on that portion of the milk disposed of in the marketing area. Since milk marketed outside the marketing area would represent most of the total supply in the unregulated plant, it would be necessary to determine payment for milk marketed to the various outlets. When handlers have both surplus as well as Class I milk in their plants, it is not realistic to assume that the purchase price for milk for each use is the same.

It has been suggested that in order to overcome this objection the plant of the unregulated handler be subject to audit and that the rate of compensation payment be based on the difference between the average utilization value at order prices in the unregulated plant and the average rate of payment to producers. This method would not recover the entire advantage of selling surplus milk as Class I in the marketing area. This method has not only the disadvantages associated with other schemes which assume the determination of actual pay rates to producers, but it would involve, in the case of the Texas Panhandle market, an extremely complicated and administratively impractical system of accounting and determination in such plants. The unregulated plants which are potential sources of supply of supplemental milk and milk products are numerous and widely scattered. Determination of utilization value in these plants would involve the same complications and administrative expense and difficulties as discussed earlier which would be involved in complete regulation of such plants. To make the detailed accounting necessary to establish classification, such unregulated dealers would need to maintain the same detailed records as wholly regulated handlers.

An alternative method for determining the rate of compensation payments would be to base the rate of payment on the difference between blend prices prevailing in an area and the Class I price. This method has been suggested because

it is assumed that unregulated handlers will be forced by competition to pay farmers approximately average blend prices. While this approach eliminates the need for attempting to determine actual pay rates, it could not be used without modification and still prevent the displacement of regulated milk with surplus milk from other markets at all times throughout the year. Unregulated plants, as well as regulated plants, may have some surplus milk at all times and particularly during the seasons of flush production. As a result, prices paid farmers are, in fact, blend prices made up of returns from the sale of milk in Class I outlets, as well as sales to the surplus market. If an unregulated plant were in a position to sell its surplus milk for Class I use in the marketing area and maintain its regular Class I outlets, it would have a competitive advantage over regulated handlers who found it necessary to dispose of part of their milk as surplus.

None of these suggestions presents an acceptable approach to the problem of compensation payments, to be applied to other source milk allocated to Class I in pool plants. It is necessary, therefore, to resort to a different procedure. The only sound method of dealing with this problem is one based on a recognition of the economics involved as they affect producers and handlers. This approach resolves itself primarily into a question of market values of milk.

Fully regulated handlers under the order seeking to purchase unregulated milk will naturally resort to the lowest cost source from which suitable milk is available. In fixing the rate of compensation payment, it is necessary, therefore, to determine what the lowest cost source may be and to base the payment on the difference between the cost of such milk and the cost of milk priced under the order for similar use. Milk supplies are larger in spring and summer than in fall and winter, and because of relatively constant sales of fluid milk, the excess increased production must be marketed largely as manufactured products. This outlet represents the opportunity cost of the surplus milk since it is the highest price at which the milk can otherwise be sold. It is this opportunity cost or value of such milk which would be effective in determining the price at which the unregulated plant would sell such milk.

Since considerable volumes of Grade A milk must be disposed of as surplus by various unregulated plants from which the Texas Panhandle market may obtain milk, it is evident that handlers under the order could obtain such milk at prices reflecting its value as surplus milk. In short, the actual value of seasonal or reserve milk is not the blend price paid to dairy farmers but rather the price which can be obtained for it in the market when disposed of as surplus milk.

Therefore, for the months of March through June, during which period surplus milk may be available in substantial volumes to the Texas Panhandle market from nonpool sources, the compensation payment on the receipts of other source fluid milk products which are allocated to Class I milk should be based on the difference between the minimum price of producer milk used for surplus and the applicable Class I price under the Texas Panhandle order. The Class II price established by the order is a fair and economic measure of the value of milk in surplus uses in the Texas Panhandle area.

During the months of July through February the milk supplies for the Texas Panhandle market tend to be shorter than in other seasons of the year. It is not likely that other source fluid milk products will be available to the market at surplus prices. The compensation payment during these months should be the difference between the marketing area uniform price to producers and the Class I price adjusted to the location of the plant from which such fluid milk products are supplied. The relationship between the supply of milk and the demand for milk in the Texas Panhandle market during the July through February period tends to fluctuate from year to year according to marketing conditions. These conditions will generally prevail also in surrounding markets which are potential sources of supply for unpriced milk. Thus, the rate of compensation payment based on the difference between Class I and uniform prices will adjust itself automatically in these months according to the changes in the demand for and the price of outside supplies. If supplies of producer milk are relatively plentiful, unpriced milk can be expected to be cheaper. Therefore, in order to equalize costs of milk the rate of compensation payment should be somewhat higher. On the other hand, as milk supplies in the area tend to be shorter, it is to be expected that the cost of unregulated milk will increase. Under these circumstances the rate of compensation payment will be correspondingly less.

In some instances there will be no and in all cases insignificant transportation charges per hundredweight experienced by handlers on other source milk used in the form of concentrated milk products under the skim milk equivalent basis of accounting provided for in the order. For this reason, other source milk from such products should be considered to be from a source at the location of the pool plant where it is used. In other words, the compensation payment on such other source milk derived from concentrated products, such as condensed milk or nonfat dry milk solids, which is allocated to Class I milk will be equal to the difference between the market area Class I price and the corresponding uniform blend price or Class II price, as the case may be. By following this procedure, other source milk derived from Grade A manufactured products which may be made from producer milk in handlers' plants or purchased from outside sources will be subject to identical reclassification changes. This will remove to the greatest extent that it is administratively possible, any advantage there may be in utilizing the products from unregulated sources for producer milk. It also will tend to promote the use and storage of producer milk in the form of manufactured products during periods when receipts of producer milk are greater than the Class I requirements of the market.

By choosing a rate of compensation payment which reflects the cost of the cheapest other source milk which may be expected to be available to regulated handlers, any advantage to one handler relative to the others in obtaining such cheap milk and substituting it for producer milk in Class I, is removed insofar as is administratively possible. No handler is given the clear opportunity to gain an unfair advantage over his competitors which otherwise would exist. However, if other source milk is to be purchased, the incentive for purchasing the cheapest of such milk remains, because the lower the price which a handler pays for other source milk, the lower will be his total cost of purchasing such milk. This follows from the fact that the measure of the compensation payment is an objective one and does not depend upon the particular price which the handler paid for the other source milk.

As indicated elsewhere in this decision, the process of marketwide pooling creates special incentive for milk to come into the market to gain certain advantages. Such milk would not be associated with the market in the absence of regulation.

The act requires that prices fixed under the order for milk purchased from producers or associations of producers be uniform as to all handlers, subject only to usual adjustments, such as those for butterfat content and location of the milk. The only prices fixed under the order are those for producer milk, and it is hereby determined that they are uniform as required by the act. Class prices for pool milk under the order are for raw milk as received from farmers, f. o. b. the loading platform at the plant where first received.

In calculating the payments on other source milk the Class I price must relate to and be fixed as of the point where the milk is received from farmers at the first receiving plant, so as to be properly comparable with the minimum Class I price for producer milk at that level of marketing. No allowance should be made for subsequent handling costs and profits in this farm level comparison between producer and other source milk because such costs and profits attach at stages of marketing subsequent to the basing point to which minimum Class I prices for producer milk refer. They are in no way regulated by the order with respect to producer milk. Neither the act nor the proposed order contemplates, authorizes or provides for the regulation of subsequent handling charges or profits or the establishment of uniform resale prices between handlers, whether the milk be from producers or other sources.

The compensation payments herein provided are not only incidental, but necessary to sustain the classification and pricing of milk according to its use in the market. The rates of payment specified are those which are necessary and appropriate to accomplish this purpose.

Testimony in the hearing record concerning availability of milk supplies to Texas Panhandle handlers indicates that

the rate of payment recommended here will tend to equalize the competitive position of priced and unpriced milk, and will avoid displacement of producer milk for reasons of cost. However, if experience proves that milk is available to handlers in the future at prices different than those now indicated, or that such payments otherwise interfere with the purposes of the order, then it will be necessary to reconsider the rate of compensation payment on the basis of that experience.

In addition to that other source milk which would enter the marketing area through pool plants, some nonpool milk may be distributed within the marketing area from nonpool plants. It would not be possible to stabilize the market under the classified pricing program if distribution in the marketing area of unpriced milk from nonpool plants without compensation payments were allowed. Such milk should be classified and priced the same as unpriced milk distributed through any other channels.

Handlers distributing such unpriced milk in the marketing area from nonpool distributing plants have the same opportunity to buy milk at the opportunity cost level as do the operators of pool plants who purchase other source milk. Such milk may be purchased and distributed in the marketing area. In addition, however, the operator of the nonpool plant in all probability has surplus milk in his own plant which he would want to dispose of on any basis which would yield a higher return than the surplus value. It would be particularly easy to dispose of such milk for Class I use in the marketing area by supplying contract business such as hospitals and defense establishments. With surplus outlets as the alternative, and no compensation payments to make, the nonpool handlers would have considerable incentive or margin to underbid the seller of priced milk for such sales. A nonpool plant might also use such price advantage in selling his surplus milk to Class I outlets for the purpose or establishing a regular trade on retail or wholesale routes to homes and stores in the marketing area. The nonpool plant might sell up to 15 percent of its milk into the marketing area as Class I without becoming subject to regulation. To allow a nonpool plant to use its surplus milk in this manner for establishing a regular trade in the marketing area without compensation payments would mean that such plant would have a marked competitive advantage over regulated handlers selling priced milk. Such conditions could readily lead to disorderly marketing conditions.

It is considered inappropriate also to subject a plant to full regulation if only a small share of its milk is sold in the marketing area. Such regulation might place a plant of this kind at a distinct disadvantage in relation to its unregulated competition. In some cases, a nonpool plant may be disposing of a larger share of its milk as Class I than the average utilization for the market. In such cases, the compensation payments herein provided might cost the handler less than the equalization payments such plant would pay into the marketwide pool if fully regulated as a pool plant. In these instances, the sale of small quantities of milk in the marketing area would be more likely to take place under the compensation payment provisions herein provided than if full regulation were extended to all plants.

The rate of compensation payment provided for nonpool plants making distribution directly in the marketing area should be the same as that for pool plants which obtain and use unpriced milk in Class I. The administrative feasibility of any other method of levying compensation payments is substantially the same as that described in the case of unpriced milk distributed in the marketing area by pool plants.

No compensation payments should be required on milk classified and priced as Class I under another Federal milk marketing order. The minimum prices for Class I milk under other Federal orders where Texas Panhandle handlers might obtain supplemental supplies approximate or exceed the Texas Panhandle Class I prices, as adjusted for location of the supplying plants. Since handlers operating plants under other Federal orders must pay for producer milk on a utilization basis, they would not be in a position to unload their surplus producer milk into the Texas Panhandle market for Class I use at less than Class I prices. If it should develop that such other plants have Class I sales in excess of producer milk and a compensatory payment is not applicable to such milk, further consideration may be given to the question of a payment on such milk.

Any funds collected in the form of compensatory payments should be added to the producer-settlement fund. It is the purpose of the order to insure that a sufficient and dependable supply of quality milk be available for Class I needs of the market. To the extent that Class I sales are displaced through the disposition of surplus milk from unpriced sources, producers stand to lose income from the sale of milk to the market which they are expected to supply. This loss of income would mean that the prices contemplated under the order would not be realized by producers. As a result, production might suffer, in which case consumers would stand to lose because of the disappearance of milk supplies from the regular and dependable sources which have provided milk to the market on a year-round basis. Otherwise, Class I prices would have to be increased to offset the loss of income to producers. There is no alternative source of dependable milk supplies which would cost consumers less over a period of time than the milk supplied by the regular producers. Thus, there is justification in terms of overall benefit to the market for returning to producers the difference between the value of such milk at its opportunity cost, which would otherwise be its value to the seller, and the Class I price. There is no other alternative disposition of funds from compensation payments under the authority of the act other than that herein provided.

It is necessary that the order specify the handler who is obligated to make the compensation payments. If the unpriced milk is distributed in the marketing area from a nonpool plant, the operator of such plant should make the payment. In the case of supplemental milk received at pool plants from unpriced sources, either the buying or selling plant might be assessed. From the standpoint of the economics involved, it would make no difference, since the amount of payment would be the same in both cases.

From the standpoint of administration and enforcement, it would be much easier and simpler for the regulated plant to make the payment. The market administrator has regular dealings with the pool plant handler. Such handler would be expected to know and understand the terms and provisions of the order. He is the handler who assumes the responsibility for distributing the milk in the regulated market. Whether or not a compensation payment would be required would depend upon the application of the allocation provisions of the order to the pool plant of the receiving handler.

The seller, on the other hand, would not be aware until later whether a compensation payment would be required, and might not even know at the time of the sale, particularly if the sale took place through a broker, whether or not his milk would be moved to a regulated market for disposition. If enforcement proceedings were to be required, it would be more convenient and logical to bring the case to court in the area of the regulated market where the problem arose.

The compensation payments herein provided will not prohibit the marketing of milk nor limit the marketing of milk products from any production area of the United States. The rate of payment required would be uniform for all plants similarly situated with respect to their location in relation to the marketing area.

The quantity of milk and milk products which may be sold in any regulated market is dependent at least to some extent upon the price fixed under the order for the particular class of utilization. Such influence should not be construed, however, as a limitation of the type precluded under the act. No price can be fixed without influencing, to some extent, the quantity of milk and milk products which may be sold from either regulated or unregulated sources. No quantitative limitations are imposed in the proposed order on the amounts of unpriced milk which may be disposed of in the marketing area nor does it prohibit such use or any other use of unpriced nonpool milk or milk products. The compensation payment herewith provided will not discriminate against producers by areas, but will provide for equalization of competitive prices by type of transaction with respect to regulated and unregulated milk.

The payment will not deprive suppliers of unpriced milk of a high priced market which they would otherwise enjoy. The alternative sale value of the unpriced milk is recognized, and this value is returned to these sources when sale is made to the Texas Panhandle market. If marketing facilities and outlets are such that it is advantageous

for nonpool plants to dispose of their surplus milk to the Texas Panhandle Class I market, under the provisions of the attached order, they may be expected to and undoubtedly will do so, and the return they receive should be the full surplus value for such milk.

The compensation payment herewith provided has as its primary purpose the elimination of economic incentives for handlers to use unpriced milk to displace minimum priced milk in Class I sales. The rate of payment found to be appropriate for this purpose is one which recognizes general competitive conditions in the purchase and sale of regulated and unregulated milk. It is recognized, however, that general competitive conditions do not prevail in all cases. Each handler is situated differently and each individual transaction is made under different circumstances. It is not possible, however, to adjust prices or payments to individual circumstances or transactions. Such an individual approach would not be administratively or economically feasible. Compensatory payments must therefore be applied at a definite and specified rate applicable to all handlers similarly situated. No single rate of payment can be determined, however, which would result in complete equality of cost to all handlers. Consequently, instances will undoubtedly arise which will appear to indicate that the objectives of the compensatory payment are not being achieved in particular cases. In some cases, the payments required may seem harsh.

It is necessary in seeking an overall solution to problems of this nature to adopt provisions which will be reasonable and as liberal as possible, and at the same time will still guarantee the integrity of regulation. To provide inadequate payments would leave the door open to practices which would render the program ineffective. Commerce in milk is entirely at the option of handlers. They are free to complete only those transactions which are most favorable to themselves. Order provisions must recognize this fact. They must recognize, also, that the varying conditions under which milk transactions occur give rise to great complexity and some doubtful circumstances. Where marginal problems arise, they must be resolved in favor of producers under the order, otherwise the advantage may go to unregulated milk and to dealers and farmers who are not required to abide by any rules of procedure or price making.

(d) *Distribution of the proceeds to producers.* A marketwide equalization pool should be included in the order as a means of distributing to producers the proceeds from the sale of their milk. Such a pool will assure each producer supplying the market that he will receive a return based on his pro rata share of the Class I sales of the entire market. The "blend" "base" and "excess" prices, as the case may be, that a producer receives will depend on the overall utilization of all producer milk received at the pool plants of all regulated handlers during the month. Although each handler subject to the order will be required to pay uniform prices for producer milk in accordance with the classification of such milk pursuant to the order, the minimum blend prices payable to producers will be the same for all producers in the market, irrespective of the use made of such milk by the individual handler.

The uniformity of payments to producers which is provided under a marketwide pool permits a handler either to maintain a manufacturing operation in his plant to handle the seasonal and daily reserve supplies of milk or to limit the operation at his plant to the handling of milk for Class I purposes only, without affecting the blend prices payable to his producers as against other producers in the market. The facilities in the plants of Texas Panhandle handlers for handling producer milk which is in excess of that needed for Class I purposes, vary considerably. Some of the handlers are equipped to handle limited amounts of the seasonal reserve supplies of milk in the market. Most of the Texas Panhandle handlers, however, have very limited facilities in their plants for the manufacture of dairy products. Under these conditions a marketwide pool in the Texas Panhandle marketing area will facilitate the marketing of producer milk. A marketwide pool will make it possible for the producers' associations to assist in diverting seasonal reserve milk and thus keeping producers on the market which are needed to fulfill the year-round requirements of the market. It assists in spreading the cost of carrying the necessary reserve for the market among all producers where otherwise this burden may be placed on individual groups of producers. A marketwide pool will thereby contribute to market stability and the attainment of an adequate and dependable supply of producer milk.

Base and excess plan. A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the marketwide pool.

Base and excess plans, although they vary considerably among handlers, have been commonly used throughout the milkshed area. The base and excess method of distributing milk returns during the months of heaviest production has wide support among both producers and handlers and should be continued. Interruption in the use of a base plan at this time might result in increased seasonality of production to the detriment of the market.

Because of the seasonal variations in the production of milk, there is need for an incentive to maintain production in the fall and winter months relative to spring and summer levels. Some handlers have difficulty in utilizing efficiently all milk delivered to them in the months of seasonally high production. By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter as compared with deliveries during the season of flush production, a more even milk production pattern will be encouraged.

The base-excess plan provided in the attached order would establish for each producer in the market a base which would depend upon his deliveries of milk to pool plants during the months of September through December. During these months, as well as all other months in the period of July through February, producers would receive the marketwide blend or uniform price for all milk which they deliver to pool plants.

For each of the months of March through June separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allotted to base milk. Base milk would be milk received at a pool plant from a producer during any of the months of March through June which is not in excess of an amount equal to the daily base of such producer multiplied by the number of days in such month. Class II disposition in the market would first be allotted to excess milk. If Class I disposition is more than the base milk received from producers in any month, such additional Class I milk would be allocated to excess milk and the excess blend price increased accordingly.

The daily base of each producer would be calculated by the market administrator by dividing the total pounds of milk received at all pool plants from such producer during the months of September through December by the number of days from the first day such milk is received during those months to the last day of December, inclusive, but not less than 112 days. On or before February 15 of each year the market administrator would be required to notify each producer and the handler receiving milk from him, the daily base established by such producer.

It was proposed by producers that February also be included in the base operating period. The record does not indicate that February is a month of high production or that the handling of reserve supplies of milk for the Texas Panhandle market during that month is burdensome. In fact, in recent years producer receipts in the market during February have been comparatively low in relation to receipts in other months of the year.

The uniform prices, including uniform base and excess prices, which are required to be paid producers by each handler should be computed for milk containing 4.0 percent butterfat which is in accordance with past and current market practice. In distributing proceeds to producers, a differential should be applied to recognize different values of milk in accordance with its butterfat content. This differential should be determined on the basis of the weighted average value of producer butterfat according to its utilization at the class prices of the order.

Location differentials heretofore discussed should be applied to prices paid producers for base milk. Since excess milk will represent principally producer milk classified in Class II to which no location differential is applicable, the producer price for excess milk should likewise not be subject to the location differential provision of the order.

It is necessary to provide certain rules in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. Such rules should outline

specifically the method for calculating the base for each producer and set forth clearly and unequivocally the procedure to be followed for transferring bases. It is desirable that the need for administrative discretion and restrictive conditions in connection with the application of the base rules be kept at a minimum. To accomplish this, it is necessary that transfer of bases be limited to the entire base of a producer.

It is recognized, that a producer who adjusts his production under the base-excess plan to even out seasonal variations may suffer financial loss if he must discontinue production before having availed himself of the benefit of the base earned by him. It was proposed by producers at the hearing that in the event of death, retirement or entry into military service, a producer would be permitted to transfer his base to a member of his immediate family who carries on the dairy operations. In addition, it was proposed that a base be transferable by a producer discontinuing production to a person to whom the entire herd of such producer was sold.

The base rules relative to the transfer of bases which were proposed by producers lend themselves to various interpretations and would tend to result in numerous administrative determinations by the market administrator. For example, producers at the hearing were not explicit as to what would constitute retirement of a producer under this proposal.

The term "retirement" could be interpreted in numerous ways and by various standards to mean any producer who was going out of the dairy business. It would be impracticable for the market administrator to interpret such a term precisely. Moreover, regardless of the interpretation which may be applied, producers might be encouraged to resort to subterfuge if they stand to lose because of operation of the base rules. To circumscribe in an unnecessarily restrictive manner the rules for the transfer of bases might frequently result in undue hardship on producers who must liquidate their business at a time other than at the beginning of a base forming period.

A free transfer of entire bases as proposed herein will facilitate the operation and contribute toward carrying out the intent of the base-excess plan. The purpose of the base-excess plan is to encourage fall production by providing for each producer to share in the Class I market during the spring months of high production along with other producers in proportion to his deliveries to the market during the preceding fall months. Transfers of bases as herein recommended will give added assurance to a producer that he will have the full benefit of the base he has made whether or not he is able to continue milk production for his own account through the following months of flush production. This assurance should increase the effectiveness of the base-excess plan in encouraging production of milk during the months of the year when it is most needed on the market.

Bases should be transferred by the market administrator to be effective only on the first day of a month following receipt of a statement, on an approved form, showing the holder of such base, the person to whom it is to be transferred and signed by both parties.

The most practicable date on which the Texas Panhandle order could become effective would be prior to the 1956 base-operating period. Such date, however, will necessarily be subsequent to the period which would be used for determining producer bases applicable during the 1956 base-operating months. Nearly all handlers have heretofore observed base-forming periods or used methods of calculating bases which differ in various ways from that contained in the proposed order. On the basis of these facts and from the viewpoint of administrative feasibility, it is concluded that the base and excess method of paying producers should not be effective during the 1956 base-operating period. Accordingly, during 1956 each producer is to be paid not less than the monthly market-wide uniform price for his total deliveries of milk. The means by which this will be accomplished for this temporary period, without requiring special provisions in a number of sections of the order, is by providing that all milk delivered by producers to pool plants during the 1956 base-operating period shall be considered base milk.

Payment to producers. The order should provide that each handler shall pay each producer for milk received from such producer, and for which payment is not made to a cooperative association, at not less than the applicable uniform price(s) on or before the 15th day after the end of each month. Since it has been the practice in this area for handlers to pay producers semi-monthly, provision should be made for partial payments to such producers on or before the last day of each month for milk delivered during the first 15 days of such month at not less than the Class II milk price per hundredweight for the preceding month. No adjustment for butterfat content is required on such partial payment.

It was proposed by producers that provision be made for a cooperative association to receive payment for the producer milk which it causes to be delivered to a pool plant. The taking of title to milk of its members and the blending of the proceeds from the sale of such milk will tend to promote the orderly marketing of milk and will assist the cooperative association in discharging its responsibility to its members and to the market and such functions can be accomplished more expediently if the association is collecting payments for the sales of members milk.

The contract with its members of the principal cooperative in the market authorizes it to collect payment for their milk. The act provides for the payment by handlers to cooperative associations of producers for milk delivered by them and permits the blending of all proceeds from the sale of members' milk. It is concluded, therefore, that each handler shall, if requested in writing by a cooperative association, pay such association an amount equal to the sum of the individual payments otherwise payable to such producers. Handlers should be required to make such payments to the cooperative association on or before the 26th of the month for milk received during the first 15 days of the month and make the final settlement for milk received during the month on or before the 13th day of the following month.

Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions for goods or services furnished to or for payments made on behalf of the producer. At the time final settlement is made for milk received from producers during the month, the handler should be required to furnish to each producer a supporting statement. Such statement should show the pounds and butterfat tests of milk received from him, the rate(s) of payment for such milk and a description of any deductions claimed by the handler.

Producer-settlement fund. Because all producers will receive payment at the rate of the marketwide uniform price(s) each month and because the payment due from each handler for producer milk at the applicable class prices may be more or less than he is required to pay directly to producers, a method of equalizing this difference is necessary. A producer-settlement fund should be established for this purpose. A handler whose obligation for producer milk received during the month is greater than the amount he is required to pay producers for such milk at the applicable uniform price(s) would pay the difference into the producer-settlement fund, and each handler whose obligation for producer milk is less than the applicable uniform price value would receive payment of the difference from the fund. Provision for the establishment and maintenance of the producer-settlement fund as set forth in the attached order is similar to that contained in all other Federal orders with marketwide pools.

Experience has indicated that it is desirable to set aside a reasonable reserve or balance in such fund at the end of each month. Such a reserve is necessary in order to provide for contingencies such as the failure of a handler to make payment of his monthly billing to the fund or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than four nor more than five cents per hundredweight of producer milk in the pool for the month. The unobligated balance in the producer-settlement fund remaining from the preceding month would be added to the values used in calculating the uniform prices each month. The amount of the reserve which is provided herein should be adequate to enable the producer-settlement fund to perform its function efficiently.

As indicated elsewhere in this decision, compensatory payments received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited into the producer-settlement fund would be included in the uniform price computation and thereby be distributed to all producers on the market.

In order that producers may be paid in full no later than on the dates prescribed in the order, it is necessary that payments owed the producer-settlement fund be made promptly. This is necessary so that money will be available to the market administrator to make payment to those handlers to whom money is due from the fund so that they may make payment in full to their producers. A handler's failure to make payment when due to the producer-settlement fund could obstruct the clearing of the producer equalization pool.

Sufficient time is provided in the order between the billing date and the due date of the various payments which are required to be made to the market administrator. If payments to the market administrator are not made when due, interest should be charged at the rate of 6 percent per annum. Such charge is not a penalty but represents a fair interest rate for the use of money. Charging interest will avoid giving a handler any incentive to retain money temporarily for use in his business at no cost until compliance can be enforced.

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers would be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount. The remaining amounts due such handlers from the fund would be paid as soon as the balance in the fund becomes adequate to meet such payments, and handlers would then complete payments to producers. In order to reduce the possibility of this occurring, milk received by any handler who has not made the payments required of him into the producer-settlement fund would be eliminated in the computation of the uniform prices in subsequent months until such handler has completed all delinquent payments.

(e) *Administrative provisions.* Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term denotes the same meaning. Such terms as are defined in the attached order are common to many other Federal milk orders.

Market Administrator Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

Records and reports. Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make reports necessary to establish classification of producer milk and payments due therefor. Time limits must be prescribed for filing such reports and for making the payments to producers.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order.

As indicated elsewhere in this decision detailed reports to the market administrator and complete records available for his inspection by all handlers would be used to determine whether the plants of such handlers qualify as pool plants. Reports of handlers operating nonpool plants from which fluid milk products are distributed in the marketing area are needed by the market administrator in order to compute the amounts payable to the producer-settlement fund on such unpriced milk.

In addition to the regular reports required of handlers, provision is made for a handler to notify the market administrator when he intends to divert producer milk or when he intends to import other source milk. This will facilitate the check-testing program of the market administrator. Such information on a marketwide basis also may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers.

It is necessary that handlers retain records to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F R. 444) That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on (a) producer milk, (b) other source milk at a pool plant which is classified as Class I milk, and (c) Class I milk disposed of on routes in the marketing area from a nonpool plant which is not fully subject to the classification, pricing and pooling provisions of another order issued pursuant to the act.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by some handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (which includes a handler's own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. The records of such plants must be checked to verify their status under the order. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such verification.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 5 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. Provision should be made in the order for furnishing marketing services to producers, such as verifying of tests and weights and furnishing market information. These services should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is a need for a marketing services program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. Detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. Comparison of the extent of the milkshed and the volume of milk involved with that of several other markets now under Federal regulation indicates that this will reflect the maximum cost of such services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order of the Secretary directing the conduct of a referendum, determination of a representative period; and designation of referendum agent. Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among producers (as defined in the attached order regulating the handling of milk in the Texas Panhandle marketing area) who, during the month of October, 1955, which month is hereby determined to be the representative period for such referendum, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, to determine whether such producers favor the issuance of the order which is filed herewith.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177) such referendum to be completed on or before the 20th day from the date this decision is filed with the Hearing Clerk, United States Department of Agriculture.

Marketing agreement and order Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Texas Panhandle Marketing Area," and "Order Regulating the Handling of Milk in the Texas Panhandle Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, which will be published with this decision.

This decision filed at Washington, D. C., on the 22nd day of November 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

Order[1] Regulating the Handling of Milk in the Texas Panhandle Marketing Area

AUTHORITY: §§ 911.0 to 911.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 911.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Texas Panhandle marketing area. Upon the basis of the evidence introduced in such hearing and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect the market supply of and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expense, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe with respect to butterfat and skim milk contained in (a) receipts of producer milk, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 911.46 and, (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Texas Panhandle marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 911.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 911.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 911.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 911.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 911.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 911.6 *Texas Panhandle marketing area.* "Texas Panhandle marketing area," hereinafter called the "marketing area," means all the territory within the counties of Armstrong, Briscoe, Carson, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchison, Moore, Oldham, Ochiltree, Potter, Randall, Roberts, Sherman and Wheeler, all in the State of Texas.

§ 911.7 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of March through June and (2) on not more than 15 days during any of the months of July through February: *Provided,* That milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

§ 911.8 *Distributing plant.* "Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 911.9 *Supply plant.* "Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 911.10 (a)

§ 911.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 50 percent of the Grade A milk received at such point from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area: *Provided,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided,* That if such shipments are not less than 75 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year: *And provided further* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

§ 911.11 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 911.12 *Handler* "Handler" means: (a) Any person in his capacity as the operator of one or more distributing or supply plants, or (b) any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

§ 911.13 *Producer-handler* "Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers.

§ 911.14 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 911.7.

§ 911.15 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored) cream, or any mixture in fluid form of skim milk and cream (except storage cream, aerated cream products, eggnog, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers)

§ 911.16 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 911.17 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

§ 911.18 *Base milk.* "Base milk" means milk received at a pool plant from a producer during any of the months of March through June which is not in excess of such producer's daily base computed pursuant to § 911.95 multiplied by the number of days in such month: *Provided,* That all milk received at a pool plant from a producer or diverted from such a plant during any of the months

of March through June 1956 shall be base milk.

§ 911.19 *Excess milk.* "Excess milk" means milk received at a pool plant from a producer during any of the months of March through June which is in excess of base milk received from such producer during such month, and milk received during such month from a producer for whom no base can be computed pursuant to § 911.95.

MARKET ADMINISTRATOR

§ 911.25 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 911.26 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 911.27 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 911.88 (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 911.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 911.30 and 911.31, or payments pursuant to §§ 911.80, 911.84, 911.86, 911.87, and 911.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk, pursuant to § 911.51 (a) and the Class I butterfat differential, pursuant to § 911.52 (a) both for the current month; and the minimum price for Class II milk, pursuant to § 911.51 (b) and the Class II butterfat differential, pursuant to § 911.52 (b), both for the preceding month;

(2) The 10th day after the end of the months of July through February the uniform price pursuant to § 911.72 and the producer butterfat differential pursuant to § 911.81,

(3) The 10th day after the end of each of the months of March through June, the uniform prices for base milk and excess milk pursuant to § 911.73 and the producer butterfat differential pursuant to § 911.81, and

(k) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

REPORTS, RECORDS AND FACILITIES

§ 911.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer handler, shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk, and the aggregate quantities of base and excess milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 911.7;

(e) Inventories of fluid milk products on hand at the beginning and end of the month; and

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 911.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of March through June, the total pounds of base and excess milk, (iii) the number of days, if less than the entire month for which milk was received from such producer, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant(s) his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product;

(3) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted; and

(4) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

§ 911.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations including the amount and nature of any deductions and the disbursement of money so deducted.

§ 911.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records is

necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 911.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat which are required to be reported pursuant to § 911.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 911.41 through 911.46.

§ 911.41 *Classes of utilization.* Subject to the conditions set forth in § 911.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) (2) of this section) and (2) not accounted for as Class II milk:

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product; (2) disposed of and used for livestock feed, (3) contained in inventory of fluid milk products on hand at the end of the month, and (4) in shrinkage allocated to receipts of producer milk and other source milk (except milk diverted to a nonpool plant pursuant to § 911.7) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively.

§ 911.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and in other source milk.

§ 911.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 911.44 *Transfers.* Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to the pool plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to § 911.30: *Provided,* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 911.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk of both handlers;

(b) As Class I milk, if transferred to a producer-handler in the form of fluid milk product;

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 300 miles by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area,

(d) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 300 miles by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 911.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat in the fluid milk products (except in ungraded cream disposed of for manufacturing uses) disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers who the market administrator determines constitute the regular source of supply for such plant: *Provided,* That any skim milk or butterfat in fluid milk products (except in ungraded cream disposed of for manufacturing uses) disposed of from the nonpool plant which is in excess of receipts from such dairy farmers shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further* That if the total skim milk and butterfat in fluid milk products which were transferred by all handlers to such nonpool plant during the month is less than the skim milk and butterfat classified as Class I milk pursuant to the preceding proviso hereof, the assignment to Class I milk shall be prorated over the claimed Class II classification reported by each such handler on transfers to the nonpool plant.

§ 911.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water reasonably associated with such solids in the form of whole milk.

§ 911.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 911.45 the market administrator shall determine the classification of producer milk received at the pool plant(s) of each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 911.41 (b) (4),

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing provisions of an order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in Class II milk an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk by 0.05, whichever is less;

(5) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source received in the form of fluid milk products which are subject to the Class I pricing provisions of another order issued pursuant to the act;

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (4) of this paragraph;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from the pool plants of other handlers according to the classification of such products as determined pursuant to § 911.44 (a)

(8) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(9) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph and if the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with

Class II. Any amount of excess so subtracted shall be called "overage"

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of producer milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 911.50 *Basic formula price.* The basic formula price shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest cent.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Clarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price obtained by adding together the amounts calculated pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Subtract 3 cents from the Chicago butter price and multiply the remainder by 4.8; and

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 8.16.

§ 911.51 *Class prices.* Subject to the provisions of §§ 911.52 and 911.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* From the effective date of this part through August, 1957, the Class I milk price shall be the basic formula price for the preceding month, plus $2.15 during the months of July through February and plus $1.85 during all other months.

(b) *Class II milk price.* The Class II milk price shall be:

(1) For the months of March through June, the average of the prices reported to have been paid or to be paid for ungraded milk of 4 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator or the Department:

Present Operator and Location

Plains Creamery, Arnett, Okla.
Price Creamery, Portales, N. Mex.
Quint County Creamery, Mangum, Okla.
Swisher County Creamery, Tulia, Tex.

(2) For the months of July through February, the higher of the prices computed pursuant to subparagraph (1) of this paragraph and paragraph (b) of § 911.50.

§ 911.52 *Butterfat differentials to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 911.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120.

(b) *Class II prices.* Multiply the Chicago butter price for the current month by 0.110.

§ 911.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Texas, by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to a distributing plant which is a pool plant in the form of a fluid milk product and assigned to Class I pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 911.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the Amarillo City Hall (miles).	*Rate per hundredweight (cents)*
100 but less than 110	35.0
For each additional 10 miles or fraction thereof an additional	1.6

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 911.46 (a) (5), and the comparable steps in (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 911.54 *Use of equivalent prices.* If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 911.60 *Producer-handlers.* Sections 911.40 through 911.46, 911.50 through 911.53, 911.70 through 911.73, 911.80 through 911.88, and 911.95 through 911.97 shall not apply to a producer-handler.

§ 911.61 *Plants subject to other Federal orders.* The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless: (a) Such plant is qualified as a pool plant pursuant to § 911.10 (a) and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets (excluding pool plants) in the Texas Panhandle marketing area than in the marketing area regulated pursuant to such other order, or (b) such plant is qualified as a pool plant pursuant to § 911.10 (b) *Provided,* That the operator of a distributing plant or a supply plant which is exempted from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 911.30) and allow verification of such reports by the market administrator.

§ 911.62 *Handlers operating nonpool plants.* None of the provisions from §§ 911.44 through 911.53, inclusive, or from §§ 911.70 through 911.85, inclusive, shall apply in the case of a handler in his capacity as the operator of a nonpool plant, except that such handler shall, on or before the 13th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month, by the rate determined pursuant to § 911.63.

§ 911.63 *Rate of payment on unpriced milk.* The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I milk shall be any plus amount calculated as follows:

(a) During the months of March through June, subtract from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk, the Class II price adjusted by the Class II butterfat differential; and

(b) During the months of July through February subtract from the Class I price f. o. b. such nonpool plant the uniform price to producers adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 911.70 *Computation of value of milk for each handler.* The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 911.46 (a) (9) and the corresponding step of (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II less shrinkage during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 911.46 (a) (8) and the corresponding step of (b) whichever is less; and

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 911.46 (a) (2) and (3) and the corresponding step of (b) by the rate of payment on unpriced milk determined pursuant to § 911.63 at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided,* That if the source of any such fluid milk product received at a pool plant is not clearly established or if such skim milk and butterfat is received or used in a form other than as a fluid milk product such product shall be considered to have been received from a source at the location of the pool plant where it is classified.

§ 911.71 *Computation of aggregate value used to determine uniform prices.* For each month the market administrator shall compute an aggregate value from which to determine uniform prices per hundredweight for producer milk, of 4.0 percent butterfat content, f. o. b. plants located within 100 miles of the City Hall of Amarillo, Texas, as follows:

(a) Combine into one total the values computed pursuant to § 911.70 for all handlers who made the reports prescribed in § 911.30 for such month, except those in default of payments required pursuant to § 911.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 4.0 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 911.82; and

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund.

§ 911.72 *Computation of uniform price.* For each of the months of July through February, the market administrator shall compute a uniform price for producer milk of 4.0 percent butterfat content f. o. b. pool plants located within 100 miles of the City Hall of Amarillo, Texas, as follows:

(a) Divide the aggregate value computed pursuant to § 911.71 by the total hundredweight of producer milk included in such computations; and

(b) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (a) of this section. The resulting figure shall be the uniform price for producer milk.

§ 911.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, f. o. b. pool plants located within 100 miles of the City Hall of Amarillo, Texas, as follows:

(a) From the reports submitted by handlers pursuant to § 911.30, determine the aggregate classification of producer milk included in the computation of value pursuant to § 911.71 and the total hundredweight of such milk which is base milk and which is excess milk;

(b) Determine the value of such excess milk on a 4 percent butterfat basis by multiplying the total hundredweight of such milk which is not greater than the total Class II milk pursuant to paragraph (a) of this section by the Class II milk price and by adding thereto the value obtained by multiplying the hundredweight of such excess milk which is greater than the quantity of such Class II milk by the Class I milk price;

(c) Divide the value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, and subtract not less than 4 nor more than 5 cents from the price thus computed. The resulting figure shall be the uniform price for excess milk;

(d) Subtract the value of excess milk obtained in paragraph (b) of this section from the aggregate value of all milk obtained in § 911.71, and

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk obtained in paragraph (a) of this section, and subtract not less than 4 cents nor more than 5 cents from the price thus computed. The resulting figure shall be the uniform price for base milk.

§ 911.80 *Time and method of payment for producer milk.* Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month, for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month,

(b) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform prices per hundredweight pursuant to §§ 911.72 and 911.73 subject to the butterfat differential computed pursuant to § 911.81 plus or minus adjustments for errors made in previous payments to such producer and less (1) payment made pursuant to paragraph (a) of this section, (2) location differential deductions pursuant to § 911.82, (3) marketing service deductions pursuant to § 911.87 and (4) proper deductions authorized by such producer: *Provided,* That if such handler has not received full payment for such month pursuant to § 911.85 he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator. The handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 13th and 26th days of each month, in lieu of payments pursuant to paragraphs (a) and (b) respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer, including for the months of March through June, the pounds of base milk and excess milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 911.81 *Butterfat differentials to producers.* The applicable uniform prices to be paid each producer pursuant to § 911.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the total pounds of butterfat in the producer milk allocated to Class I and Class II milk during the month pursuant to § 911.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 911.82 *Location differentials to producers.* In making payment pursuant to § 911.80 the uniform price pursuant to § 911.72 and the uniform price for base milk pursuant to § 911.73 to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the Amarillo City Hall (miles)	*Rate per hundredweight (cents)*
100 but less than 110	35.0
For each additional 10 miles or fraction thereof an additional	1.6

§ 911.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 911.62, 911.84, and 911.86, and out of which he shall make all payments pursuant to §§ 911.85 and 911.86: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 911.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month each handler shall pay to the market administrator the amount by which the value of milk for such handler, pursuant to § 911.70, for such month exceeds the obligation, pursuant to § 911.80, of such handler to producers for milk received during the month.

§ 911.85 *Payments out of the producer-settlement fund.* On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount by which the obligation, pursuant to § 911.80, of such handler to producers for milk received during the month exceeds the value of milk for such handler computed pursuant to § 911.70. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

§ 911.86 *Adjustment of errors in payment.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 911.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 911.85, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 911.80, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 911.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 911.80 (b) shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 911.88 *Expense of administration.* As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 911.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 911.89 *Adjustment of overdue accounts.* There shall be added to any balance due the market administrator pursuant to §§ 911.62, 911.84, 911.86, 911.87, and 911.88 an amount equal to one-half of one percent of such balance for each month or any portion thereof that payment of the balance is overdue.

§ 911.90 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this

part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 911.95 *Daily base.* The daily base for each producer shall be the amount obtained by dividing the total pounds of producer milk received from such producer by all handlers during the months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December inclusive, less the number of days for which no deliveries are made, but not less than 112 days.

§ 911.96 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the months of September through December;

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the first day of any month following receipt by the market administrator of an application for such transfer. Such application shall be on a form approved by the market administrator and shall be signed by the baseholder and by the person to whom such base is to be transferred: *Provided,* That if a base is held jointly, the entire base shall be transferable only upon receipt of such application signed by all joint holders.

§ 911.97 *Announcement of established bases.* On or before February 15 of each year subsequent to 1956, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 911.100 *Effective time.* The provisions of this part, or any amendments to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 911.101 *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 911.102 *Continuing power and duty of the market administrator* (a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment or which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 911.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under this control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 911.110 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 911.111 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

[F. R. Doc. 55-9496; Filed, Nov. 25, 1955; 8:50 a. m.]

[7 CFR Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

SCHEDULE OF PAYMENTS TO HANDLERS

Notice is hereby given that the Secretary of Agriculture is considering the approval of a proposed further amendment submitted by the Prune Administrative Committee, as set forth hereinafter, of the amended schedule of payments to handlers to compensate them for necessary services in connection with surplus tonnage prunes (19 F R. 6495) issued pursuant to the applicable provisions of Marketing Agreement No. 110, as further amended, and Marketing Order No. 93, as further amended (19 F R. 1301) regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Consideration will be given to any data, views, or arguments pertaining to the amendment hereinafter set forth which are filed in triplicate with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., and received not later than the tenth day after the date of publication of this notice in the FEDERAL REGISTER, except that, if said tenth day after publication should fall on a legal holiday or Saturday or Sunday, such submission will be received by the Director not later than the close of business on the next following business day.

The proposed amendment is as follows:

Amend the introductory portion of § 993.401 (b) (i. e., that portion which precedes subparagraph (1) of that section) to read as follows:

(b) For surplus tonnage received by a handler from producers and dehydrators either as standard prunes or as standard prunes in appraisal lots, the handler so holding such prunes, who performs the necessary services thereon for the commitee, shall be reimbursed, except as provided in paragraphs (c) and (e) of this section, at the rate of $18.00 per ton for the following service costs.

Issued at Washington, D. C., this 22d day of November 1955.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 55-9499; Filed, Nov. 25, 1955; 8:50 a. m.]

[7 CFR Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

ADMINISTRATIVE RULES AND PROCEDURES

Notice is herby given that the Secretary of Agriculture is considering the approval of proposed further amendments submitted by the Prune Administrative Committee, as set forth hereinafter, of the amended administrative rules and procedures (19 F R. 5207, 6908; 20 F R. 1240) issued pursuant to the applicable provisions of Marketing Agreement No. 110, as further amended, and Marketing Order No. 93, as further amended (19 F. R. 1301), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Consideration will be given to any data, views, or arguments pertaining to the amendments hereinafter set forth which are filed in triplicate with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., and received not later than the tenth day after the date of publication of this notice in the FEDERAL REGISTER, except that, if said tenth day after publication should fall on a legal holiday or Saturday or Sunday, such submission will be received by the Director not later than the close of business on the next following business day.

The proposed amendments of the amended administrative rules and procedures are as follows:

1. Amend the provisions of § 993.150 (c) (1) to read as follows:

§ 993.150 *Receiving and disposition of prunes by handlers during any crop year when the estimated seasonal average price is in excess of parity.* * * *

(c) *Reports of accounting*—(1) *Independent handler's reports of accounting.* Within 10 days (exclusive of Saturdays, Sundays and legal holidays) after a handler, other than a nonprofit cooperative agricultural marketing association, makes a size report, accounting, or settlement with a producer or dehydrator for prunes delivered to him, he shall submit to the committee a copy of the size report, and the accounting or settlement record, which shall contain the following information: (i) The names and addresses of the producer or dehydrator and the handler, and the date of size report, accounting, or settlement; (ii) the contract number, if any; (iii) an itemized statement of the total tenders of prunes in the delivery, showing the date, receiving point, weight certificate or door receipt number, inspection certificate number, net weight, variety, crop year of production, and the total net weight of the delivery. In the event more than one producer or dehydrator has a financial interest in prunes shown on a size report, accounting, or settlement sheet required to be submitted hereunder, the handler shall include thereon the name and address of each person having such financial interest as shown by the handler's records.

2. Amend the provisions of § 993.161 (a) (3) to read as follows:

§ 993.161 *Surplus tonnage*—(a) *Reports.* * * *

(3) *Independent handler's reports of accounting.* Within 10 days (exclusive of Saturdays, Sundays and legal holidays) after a handler, other than a nonprofit cooperative agricultural marketing association, makes a size report, accounting, or settlement with a producer or dehydrator for prunes delivered to him, he shall submit to the committee a copy of the size report and the accounting or settlement record, which shall contain the following information: (i) The names and addresses of the producer or dehydrator and the handler, and the date of the size report, accounting, or settlement; (ii) the contract number, if any; (iii) an itemized statement of the total tenders of prunes in the delivery, showing the date, receiving point, weight certificate or door receipt number, inspection certificate number, net weight, variety, the crop year of production, and type of certification, and, if substandard, the average size count of a representative sample of the off-grade prunes in the tender, and if received on appraisal, the tonnage of prunes equivalent to the quantity of off-grade prunes necessary to be removed therefrom for the remainder to be standard prunes; and (iv) the total net weight of the delivery, itemized as to salable, surplus standard, and surplus substandard prunes, the net weight, by sizes, of the surplus standard prunes, and the net weight by classifications (edible and inedible) of the surplus substandard prunes as determined by inspection certificate data developed for the administration of the provisions of § 993.63 (f) In the event more than one producer or dehydrator has a financial interest in prunes shown on a size report, accounting, or settlement sheet required to be submitted hereunder, the handler shall include thereon the name and address of each person having such financial interest as shown by the handler's records.

3. Amend the provisions of § 993.161 (b) (1) to read as follows:

§ 993.161 *Surplus tonnage.* * * *

(b) *Holding in proper storage and delivery of surplus tonnage*—(1) *Provision in the event of failure to deliver in accordance with obligation.* In the event a handler fails to deliver to the committee the total surplus tonnage of any established grade or size group category in accordance with his obligation to so deliver, after any applicable tolerance allowances for shrinkage in weight, increase in the number of prunes per pound, and normal and natural deterioration and spoilage which may then be in effect have been applied, the handler shall make up any deficiency by delivering to the committee a quantity of prunes of his salable tonnage of the weight, grade, and size necessary to rectify such deficiency: *Provided,* That a handler may deliver prunes for disposition as animal feed, botanicals, or distillation without a requirement as to grade or its certification, if such prunes, on the basis of incoming inspection certificates or certificates of appraisal, as the case may be, were received as standard prunes. To the extent that a handler is unable to rectify such a deficiency with prunes of his salable tonnage he shall compensate the committee in the amount of the reduction of surplus tonnage revenue that is occasioned by his unfulfilled surplus tonnage obligation, such amount to be calculated on the basis of the average price received by the committee during the crop year for surplus tonnage prunes of the applicable grade or size category and of the specific grade and size involved plus costs to the committee caused by the handler's failure to meet his obligation: *Provided,* That the remedies herein provided shall be in addition to and not exclusive of any of the remedies or penalties prescribed in the act with respect to the failure on the part of the handler to comply with the applicable provisions of the act or any part or subpart thereof.

4. Add a new § 993.176, immediately after existing § 993.175, reading as follows:

§ 993.176 *Records.* Each handler shall maintain such records as are necessary to furnish any report required to be submitted to the committee by him under this subpart, including, but not limited to, all records of prunes received, held and disposed of by him, and he shall retain such records for at least two years after the end of the crop year in which the applicable transaction occurred.

Issued at Washington, D. C., this 22d day of November 1955.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 55-9500; Filed, Nov. 25, 1955; 8:50 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED PRUNE JUICE, A WATER EXTRACT OF DRIED PRUNES

EXTENSION OF TIME FOR FILING WRITTEN COMMENTS UPON PROPOSED RULE MAKING

On October 28, 1955, a notice of proposed rule making concerning a definition and standard of identity for canned prune juice, a water extract of dried prunes, was published in the FEDERAL REGISTER (20 F. R. 8125). Interested persons were given 30 days to submit their views in writing to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C.

The Commissioner of Food and Drugs, having been requested to extend the time within which such written documents may be filed: *It is ordered,* That the time for filing written comments be extended until December 27, 1955, and that such extension shall apply to all interested persons.

Dated: November 21, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner of Food and Drugs.

[F. R. Doc. 55-9484; Filed, Nov. 25, 1955; 8:47 a. m.]

[21 CFR Part 130]

DRUGS EXEMPTED FROM PRESCRIPTION—DISPENSING REQUIREMENTS OF SECTION 503 (b) (1) (C) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

NOTICE OF PROPOSED RULE MAKING

Notice is given that the Commissioner of Food and Drugs, in accordance with the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c) 701 (a) 65 Stat. 649, 52 Stat. 1052, 1055; 21 U. S. C. 353 (b) (3), 371 (a)) and the

authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR, 1954 Supp., 1.108 (c)) hereby offers an opportunity to all interested persons to submit their views in writing to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER on the proposed amendment set forth below.

It is proposed to amend paragraph (a) of § 130.1 *Exemption for certain drugs limited by new-drug applications to prescription sale* by adding the following new subparagraphs (8) and (9)

(8) Dicyclomine hydrochloride (1-cyclohexylhexahydrobenzoic acid, β-diethylaminoethyl ester hydrochloride; diethylaminocarbethoxy-bicyclohexyl hydrochloride) preparations meeting all the following conditions:

(i) The dicyclomine hydrochloride is prepared with suitable antacid and other components; in tablet or other dosage form for oral use in self-medication, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The dicyclomine hydrochloride and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iii) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(iv) The preparation contains not more than 5 milligrams of dicyclomine hydrochloride per dosage unit, or if it is in liquid form not more than 0.5 milligram of dicyclomine hydrochloride per milliliter.

(v) The preparation is labeled with adequate directions for use only by adults and children over 12 years of age, in the temporary relief of gastic hyperacidity.

(vi) The dosages recommended or suggested in the directions for use do not exceed 10 milligrams of dicyclomine hydrochloride per dose or 30 milligrams in a 24-hour period.

(vii) The labeling bears, in juxtaposition with the dosage recommendations, clear warning statements against:

(*a*) Exceeding the recommended dosage.

(*b*) Prolonged use, except as directed by a physician, since persistent or recurring symptoms may indicate a serious disease requiring medical attention.

(*c*) Administration to children under 12 years of age except as directed by a physician.

(*d*) Use if dryness of the throat, blurring of vision, dizziness, or rapid pulse occurs.

(9) Neomycin sulfate preparations meeting all the following conditions:

(i) The neomycin sulfate is prepared with a vasoconstrictor, and with or without other drugs, in an aqueous vehicle suitable for administration in self-medication as a nasal spray, or as nose drops, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The preparation is packaged with a style of container or assembly suited to self-medication by the recommended route of administration, and delivering not more than 0.1 milliliter of the preparation per spray or per drop.

(iii) The neomycin sulfate and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iv) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(v) The neomycin sulfate content of the preparation does not exceed the equivalent of 0.8 milligram of standard neomycin base per milliliter.

(vi) The preparation is labeled with adequate directions for use in the temporary relief of nasal congestion due to the common cold and hay fever.

(vii) The dosages recommended or suggested in the directions for use do not exceed. For adults, 3 sprays or 3 drops per nostril per dose, or 5 doses in a 24-hour period; for children over 3 years of age, 2 sprays or 2 drops per nostril per dose, or 5 doses in a 24-hour period.

(viii) The labeling bears, in juxtaposition with the dosage recommendations, clear warning statements against:

(*a*) Administration to children under 3 years of age, except as directed by a physician.

(*b*) Exceeding the recommended dosage.

(*c*) Use in a manner contraindicated by the nature of the vasoconstrictor or other components.

The proposed amendment will remove the drugs mentioned therein from the prescription-dispensing requirements of the Federal Food, Drug, and Cosmetic Act (sec. 503 (b) (1) (C) 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (1) (C)) These drugs were previously limited by their new-drug applications to use under professional supervision because the scientific data establishing the toxic potential of the drugs and their intended use showed that they were safe only if used under professional supervision.

Pursuant to the regulations in § 1.108 (c) of this chapter (21 CFR, 1954 Supp., 1.108 (c)) petitions have been submitted to remove the prescription restrictions from these drugs. Evidence now available through investigation and marketing experience shows that the drugs can be safely used by the laity in self-medication if they are used in accordance with the proposed labeling. The restriction to prescription sale is no longer necessary for the protection of the public health.

This action in removing the prior restriction limiting these drugs to prescription sale is taken under the authority of the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (3) 355 (c)), which provides for and requires the removal of such restrictions if they are not necessary for the protection of the public health.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interprets or applies secs. 503 (b) (3) 505 (c), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (3), 355 (c))

Dated: November 18, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner of Food and Drugs.

[F. R. Doc. 55-9467; Filed, Nov. 25, 1955; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 11]

[Docket No. 11435]

POWER RADIO SERVICE; ELIGIBILITY

ORDER EXTENDING TIME FOR FILING COMMENTS

In the matter of amendment of § 11.251 of the Commission's rules and regulations (20 F R. 4777, 6751)

The Commission having under consideration a petition filed on November 10, 1955, by the National Committee for Utilities Radio in the above-entitled proceeding requesting an extension of time in which to file further comments directed to the Commission's order and further notice of proposed rule making in this docket from November 14, 1955, to December 8, 1955;

It appearing that good and sufficient reasons have been advanced by the National Committee for Utilities Radio in its petition for an extension of time and that the public interest would be served by a grant thereof;

It is ordered, Pursuant to the provisions of section 0.291 (b) (4) of the Commission's rules that the time for filing comments in the above-entitled proceeding is hereby extended from November 14, 1955, to December 8, 1955, and that the date for filing comments in reply thereto is extended to December 19, 1955.

Dated: November 18, 1955.

Released: November 18, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9492; Filed, Nov. 25, 1955; 8:49 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 11645, Amdt.]

PAUL HALLER

In re: Estate of Paul Haller, Deceased. File No. D-28-12231, E. & T. sec, 16456.

Vesting Order 11645, dated July 19, 1948, is hereby amended as follows and not otherwise:

1. By inserting, in subparagraph 1 of Vesting Order 11645, immediately after the words "Jakob Haller" the words "or the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Albert Haller and Johannas (Hans) Haller,"

All other provisions of said Vesting Order 11645 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

(40 Stat. 411, 50 U. S. C. App. 1; 55 Stat. 839, 50 U. S. C. App. Sup. 616; Pub. Law 322, 79th Cong., 60 Stat. 50; Public 671, 79th Cong.; 60 Stat. 925; E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 10 F. R. 6917, 3 CFR 1945, Supp., E. O. 9788, October 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on November 21, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 55-9486; Filed, Nov. 25, 1955; 8:48 a. m.]

POST OFFICE DEPARTMENT

COMBINATION MAILINGS

MAILING ENCLOSURES OF DIFFERENT CLASSES

Effective November 28, 1955, the Post Office Department will place in effect a more convenient method for the mailing of two classes of mail together. Until February 1, 1956, combined classes of mail will be accepted for mailing in accordance with the temporary regulations set forth below. It is not considered practicable to delay adoption of this new method beyond November 28, 1955, and thereby deny the benefits of this method to the mailing public during the period preceding Christmas, 1955.

The Postmaster General desires, however, to afford patrons of the Postal Service an opportunity to present written views concerning this method of mailing combined classes of mail. Such written views may be submitted to N. R. Abrams, Assistant Postmaster General, Bureau of Post Office Operations, Post Office Department, Washington 25, D. C., at any time prior to January 15, 1956.

The views and comments submitted will be considered by the Department and the final regulations which will govern this new method of mailing mixed classes of mail will be made effective on February 1, 1956.

SECTION 1. *Enclosures mailed with second-class publications—(a) First- and third-class enclosures.* Letters or other pieces of first- or third-class mail may be mailed with second-class publications. They may be:

(1) Placed in the outside envelope or wrapper with a single copy.

(2) Secured inside an unwrapped copy, or

(3) Enclosed in a bundle of copies.

(b) *Payment of postage.* Postage at the appropriate first- or single piece third-class rate must be paid for each separate enclosure. The postage may be placed on the outside envelope, wrapper, or cover of a publication, or the postage may be placed on the enclosure by using precanceled or meter stamps. Postage at the second-class pound or per copy rates must be paid on the publication in the manner prescribed by 39 CFR Part 16. When postage at the transient second-class rate is paid on the publication, follow the procedure in section 2.

(c) *Marking required.* When postage for the enclosure is placed on the outside envelope, wrapper, or cover of a publication, the mailer must mark each piece as required by section 2 (e) Markings are not required when postage is placed on the enclosure.

SEC. 2. *Enclosures mailed with third- and fourth-class parcels—(a) First-class enclosure.* Letters may be enclosed in a third- or fourth-class parcel. Postage at the first-class rate must be paid for each letter.

(b) *Third-class enclosures.* Third-class mail may be enclosed in a fourth-class parcel. Postage at the single-piece third-class rate must be paid for each enclosure.

(c) *Placement of enclosure.* The enclosure should be placed on top of other items in the parcel when practical.

(d) *Payment of postage.* Postage for the enclosure must be placed on the outside of the parcel. It may be added to the postage for the parcel and the total amount paid together, or the postage for the enclosure may be affixed separately from the postage for the parcel.

(e) *Marking required.* The mailer must place the endorsement "First-Class Mail Enclosed" or "Third-Class Mail Enclosed" on each parcel below the postage and above the address. The endorsement may be handstamped, handwritten, typewritten, printed, or put on by any other method.

SEC. 3. *Penalty—(a) Failure to pay.* If postage is not paid at the appropriate rate in the manner provided for by sections 1 and 2 for letters or other pieces of first- or third-class mail, the second-class publications or the third- or fourth-class parcels in which they are enclosed will be subject to the higher rate applicable to the enclosure.

(b) *Concealment.* Mailers are subject to a fine of not more than $100 if they knowingly conceal letters or other pieces of first- or third-class mail in second-class publications or in third- or fourth-class parcels without paying the appropriate rate of postage on the enclosures in the manner provided for by sections 1 and 2.

(R. S. 161, 396, secs. 304, 303, 42 Stat. 24, 25, sec. 1, 62 Stat. 784; 5 U. S. C. 22, 369, 18 U. S. C. 1723)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor

[F. R. Doc. 55-9523; Filed, Nov. 23, 1955; 3:08 p. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Order 601, Amdt. 1]

REVESTED OREGON AND CALIFORNIA GRANT LANDS AND COOS BAY WAGON ROAD GRANT LANDS

DECLARATION OF ANNUAL PRODUCTIVE CAPACITY

NOVEMBER 21, 1955.

The final paragraph of Bureau Order No. 601 dated October 25, 1955, published in the FEDERAL REGISTER October 29, 1955, Doc. 55-8738, is amended to read as follows:

Section 3 of Secretarial Orders No. 2285, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, and 2390 is hereby revoked.

EDWARD WOOZLEY,
Director.

[F. R. Doc. 55-9470; Filed, Nov. 25, 1955; 8:46 a. m.]

[Docket Nos. DA-119, 120]

WASHINGTON

RESTORATION ORDER UNDER FEDERAL POWER ACT; AMENDMENT

NOVEMBER 18, 1955.

The Restoration Order under Federal Power Act, Docket Nos. DA-119; 120, in Federal Register Document 54-9443, December 1, 1954, at page 7910, is hereby amended to show the date of the order to be November 23, 1954.

FRED J. WEILER,
State Supervisor.

[F. R. Doc. 55-9485; Filed, Nov. 25, 1955; 8:48 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. S-60]

ISBRANDTSEN CO., INC.

NOTICE OF HEARING ON APPLICATION FOR OPERATING-DIFFERENTIAL SUBSIDY AGREEMENT

Notice is hereby given that a public hearing will be held under sections 605 (c) and 805 (a) of the Merchant Marine Act, 1936, as amended, upon on application of Isbrandtsen Company, Inc., for an operating-differential subsidy agreement

on said Company's Eastbound Round-the-World Service under which it would be permitted to operate a minimum of 24 and a maximum of 29 subsidized sailings per year, and for written permission to carry cargoes in the United States Eastbound Intercoastal trade on unsubsidized voyages with cargo vessels. Isbrandtsen's Eastbound Round-the-World Service is described as follows:

Fortnightly sailings with dry-cargo vessels and with limited passenger accommodations in a Round-the-World Eastbound Service from United States North Atlantic ports north of Hatteras; to Azores; Morocco (Casablanca) Mediterranean Spain (optional call at Spanish Atlantic port) Mediterranean France; West Coast of Italy; Greece; Eastern Mediterranean and Suez Canal ports; ports in the Red Sea, West Pakistan; India; Ceylon; Singapore; Straits Settlements/Malaya/Indonesia; Thailand; French Indochina, Philippines; Hongkong; Formosa; Chinese ports when and if open to traffic; Korea; Japan, and thence return to United States North Atlantic ports via California, Panama Canal ports and Puerto Rico.

The purpose of the hearing under sec. 605 (c) is to receive evidence relevant to the following: (1) whether the application is one with respect to a vessel or vessels to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and, if so, whether the service already provided by vessels of United States registry in such service, route, or line is inadequate, and in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon; (2) whether the application is one with respect to a vessel operated or to be operated in a service, route, or line served by two or more citizens of the United States with vessels of United States registry, and, if so, whether the effect of the subsidy contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in competitive services, routes, or lines; and (3) whether it is necessary to enter into such contract in order to provide adequate service by vessels of the United States registry.

The purpose of the hearing under sec. 805 (a) is to receive evidence relevant to whether granting such application (a) will result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the said Act.

The hearing will be conducted before an Examiner at a time and place to be announced, in accordance with the Board's Rules of Practice and Procedure, and a recommended decision will be issued.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in this proceeding are requested to notify the Secretary of the Board within fifteen (15) days from publication hereof, and should promptly file petitions for leave to intervene in accordance with said Rules of Practice and Procedure.

Dated: November 22, 1955.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 55-9483; Filed, Nov. 25, 1955; 8:47 a. m.]

Office of the Secretary

[Department Order 87 (A) Amdt. 1]

COAST AND GEODETIC SURVEY

ORGANIZATION AND FUNCTIONS

The material appearing in 20 F R. 5279 et seq. is amended by the following:

Department Order No. 87 (Amended) of July 6, 1955, is hereby amended as follows:

1. Subsection 3 of section 2.02 is changed to read as follows:

3. Administrative Divisions, which include:

(1) Administrative Services Division.
(2) Budget and Fiscal Services Division.
(3) Instruments Division.
(4) Personnel Division.
(5) Organization and Management Division.

2. Subsection 4 of section 7.01 is changed to read as follows:

4. The Personnel Division develops and directs the civilian personnel program for the Bureau, giving assistance and guidance to all other divisions on personnel administration. The division has responsibility for position classification and wage board matters, employee relations, recruitment, placement, orientation, and supervisory training; performance ratings, and incentive awards programs; and processing related records and reports.

The following subsection 5 is added to section 7.01.

5. The Organization and Management Division provides advice and assistance and conducts surveys and studies relating to organization, staffing, methods and systems, work flow, and other management activities to promote efficiency and economy throughout the Bureau. It develops and coordinates other special programs including forms and records management, motor vehicles, and management improvement. It reviews and implements Department and other agency issuances and prepares and coordinates Bureau issuances.

3a. The present subsection (2) of section 6.026 is deleted and subsection (3) is renumbered (2)

b. Subsection 1 of section 6.02 is changed to read as follows:

1. The Coastal Surveys Division prepares plans for and supervises the execution of hydrographic and plane table topographic surveys along the coasts of the United States and its possessions; maintains the Bureau's vessels and other floating equipment, and directs their construction, maintenance, and repair; compiles and edits the Coast Pilots and makes field investigations for maintaining accuracy of the information published therein.

Effective date: October 24, 1955.

[SEAL] SINCLAIR WEEKS, *Secretary of Commerce.*

[F. R. Doc. 55-9465; Filed, Nov. 25, 1955; 8:45 a. m.]

[Department Order 90 (Amended)]

NATIONAL BUREAU OF STANDARDS

ORGANIZATION AND FUNCTIONS

The material appearing in 20 F. R. 5354, et seq. is superseded by the following:

SECTION 1. *Purpose.* The purpose of this order is to describe the organization and define the functions of the National Bureau of Standards.

SEC. 2. *Organization.* .01 The National Bureau of Standards, established by the act of March 3, 1901 (31 Stat. 1449; 15 U. S. C. 271), is a primary organization unit within and under the jurisdiction of the Department of Commerce. The Bureau shall be headed by a Director appointed by the President with the advice and consent of the Senate. The Director shall report and be immediately responsible to the Under Secretary of Commerce.

.02 The National Bureau of Standards shall be constituted as follows:

1. Office of the Director

Director.
Associate Director for Chemistry.
Associate Director for Physics.
Associate Director for Testing.
Associate Director for Planning.
Assistant Director for Administration.
Director, Boulder Laboratories.

2. Scientific divisions at headquarters, reporting to the Director through Associate Directors as assigned.

Electricity and Electronics.
Optics and Metrology.
Heat and Power.
Atomic and Radiation Physics.
Chemistry.
Mechanics.
Organic and Fibrous Materials.
Metallurgy.
Mineral Products.
Building Technology.
Applied Mathematics.
Data Processing Systems.

3. Divisions in the field reporting to the Director, Boulder Laboratories:

Cryogenic Engineering.
Radio Propagation Physics.
Radio Propagation Engineering.
Radio Standards.
Administration.

4. Technical Staff Officers reporting to the Director or an Associate Director:

Office of Publications.
Office of Weights and Measures.
Office of Basic Instrumentation.
Office of Technical Information.

5. Service divisions reporting to the Assistant Director for Administration:

Accounting.
Personnel.
Administrative Services.
Shops.
Supply.
Management Planning.
Budget.
Plant.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, and subject to such policies and directives as the Secretary of Commerce may prescribe, the Director is hereby delegated the authorities and powers assigned to the Secretary by Title 15, Chapters 6 and 7, U. S. Code, or by any subsequent legislation with respect to physical science activities within the special competence of the National Bureau of Standards.

.02 The Director of the National Bureau of Standards may redelegate and authorize the successive relegation of the authority granted herein to any employee of the Bureau and may prescribe such limitations, restrictions and conditions in the exercise of such authority as he deems appropriate.

SEC. 4. *General functions.* .01 The basic functions of the National Bureau of Standards are (a) development and maintenance of the national standards of measurement, and the provision of means for making measurements consistent with those standards; (b) determination of physical constants and properties of materials; (c) development of methods for testing materials, mechanisms, and structures, and the making of such tests as may be necessary, particularly for Government agencies; (d) cooperation in the establishment of standard practices, incorporated in codes and specifications; (e) advisory service to Government agencies on scientific and technical problems; and (f) invention and development of devices to serve special needs of the Government.

.02 In carrying out these functions the Bureau is authorized to undertake the activities enumerated in section 6.02 and similar activities for which the need may arise in the operation of Government agencies, scientific institutions and industrial enterprises.

SEC. 5. *Functions of the Office of the Director* .01 The Director, subject to legal requirements and policy direction from the Secretary, determines the policies of the National Bureau of Standards and directs the development and execution of its programs.

.02 The Associate Directors for Chemistry, Physics and Testing have the following combination of responsibilities:

1. Generally assist the Director in the planning and policy direction of Bureau operations and the improvement of its management;

2. Specifically coordinate for the Director designated functions or specialized fields of activity throughout the Bureau;

3. Provide on behalf of the Director necessary supervision of divisions and offices as assigned from time to time (see Exhibit 1)

.03 The Associate Director for Planning is the Director's principal staff adviser on program development, coordination and evaluation, giving special attention to the long-range responsibilities of the Bureau in relation to the needs of science and technology.

.04 The Assistant Director for Administration is responsible for the planning and operation of administrative functions in support of technical programs and serves as the Director's principal staff adviser on management matters.

.05 In the absence of the Director, the Acting Director is automatically the first official available in the sequence listed in 5.02, 5.03, and 5.04.

.06 The Director, Boulder Laboratories, in addition to supervising the major field establishment of the Bureau, acts as an adviser to the Director on Bureau programs and operations.

SEC. 6. *Functions of scientific divisions.* .01 The general functions of the Bureau are carried out primarily by the scientific divisions, with the technical offices and services assisting them.

.02 Each scientific division is authorized to engage in such of the following activities as are appropriate to its special functions; as indicated generally by division titles (see Section 2.02)

1. Research in engineering, mathematics, and physical sciences;

2. Construction of physical standards;

3. Testing, calibration and certification of standards and standard measuring apparatus;

4. Improvement of instruments and means of measurement;

5. Investigation and testing of scales for weighing commodities for interstate shipment;

6. Cooperation with states in securing uniformity in weights and measures laws and methods;

7. Provision of standard samples for checking basic properties of materials and provision of standard instruments for calibration of measuring equipment;

8. Development of methods of chemical analysis and synthesis of materials, and investigation of properties of rare substances;

9. Study of methods of producing and measuring high and low temperatures and the behavior of materials at such temperatures;

10. Investigation of radiation, radioactive substances, and X-rays, together with their uses and means of protecting persons from their harmful effects;

11. Study of the atomic and molecular structure of chemical elements;

12. Broadcasting of radio signals of standard frequency;

13. Investigation of conditions which affect the transmission of radio waves; and distribution of information for choice of frequencies to be used in radio operations;

14. Study of new technical processes of fabricating materials in which the Government has a special interest; also, study of processes and methods of measurement used in manufacture of optical glass, pottery, tile and other clay products;

15. Determination of properties of building materials and structural elements and encouragement of their standardization and most effective use, including fire prevention aspects;

16. Metallurgical research, including study of alloy steel and light metal alloys; investigation of foundry and related practices; prevention of corrosion of metals and alloys, behavior of bearing metals; and development of standards for metals and sands;

17. Operation of a laboratory of applied mathematics;

18. Provision of general scientific and technical data resulting from the above activities or derived from other sources when such data are important to scientific or manufacturing interests or the general public and are not readily available elsewhere; and, demonstration of the results of the Bureau's work by exhibits and other means.

SEC. 7. *Functions of technical staff offices.* .01 While many technical services are obtained by scientific divisions from one another, certain service and coordinating activities are carried out by technical offices which report to the Director or to Associate Directors as assigned.

.02 The Office of Publications provides library services and assistance in the preparation, scheduling, printing, and distribution of the Bureau's publications. This includes reference searching, staff assistance to Bureau Editorial Committees, art work, and related services leading to the publication of Bureau research results in its publication series and in outside scientific and technical journals.

.03 The Office of Weights and Measures develops model laws, rules, regulations, specifications, tolerances, and general administrative procedures, including testing apparatus and test methods and promotes adoption of these by State and local weights and measures jurisdictions. As a part of this activity, that Office serves as Liaison between the States and technical staff of the National Bureau of Standards, and conducts an annual National Conference on Weights and Measures.

.04 The Office of Basic Instrumentation analyzes methods and devices for measurements of physical magnitude; coordinates Bureau projects in basic instrumentation; surveys all work in progress at the Bureau with regard to its applicability to existing or proposed instrumentation projects; arranges for the testing and evaluation of new instrument developments; stimulates and directs experimental studies of original ideas for improved means of measurements; and, arranges for preparation and dissemination of articles relating to instrumentation.

.05 The Office of Technical Information provides information on the Bureau's program and accomplishments to the public, other Government agencies, and non-governmental organizations interested in the Bureau's findings. This

includes the coordination of technical reports prepared for agencies by Scientific Divisions, information for and liaison with the technical and scientific press, and staff responsibility for the preparation of technical films, news bulletins, and exhibits.

SEC. 8. *Functions of the Administrative divisions.* .01 The central administrative divisions are responsible for their special functions and also for providing staff assistance to the Assistant Director for Administration in carrying out his functions.

02. The Accounting Division administers the official system of central fiscal records, payments and reports, conducts internal audits, and provides staff assistance on accounting and related matters.

.03 The Personnel Division advises on personnel policy and utilization and administers. recruitment, placement, classification, training, and employee relations activities, assisting operating officials on these and other aspects of personnel management.

.04 The Administrative Services Division has staff responsibility for security, safety, emergency relocation planning, and civil defense activities, and administers custodial functions, communication services, records management, duplicating service, test administration service, and local transportation service.

.05 The Shops Division designs, constructs, and repairs precision scientific instruments and auxiliary equipment.

.06 The Supply Division performs or facilitates procurement and distribution of materiel, keeps records and promotes effective utilization of property, and acts as the contracting office for all research, construction, supply, and lease contracts entered into by the Bureau.

.07 The Management Planning Division advises on all aspects of management not otherwise assigned, and provides staff assistance on the maintenance and improvement of organization and methods.

.08 The Budget Division advises on financial management and provides staff assistance in the preparation of estimates and the utilization of funds.

.09 The Plant Division maintains the physical plant at Washington, and performs staff work in planning and providing grounds, buildings, and improvements at all Bureau locations.

SEC. 9. *Field operations.* .01 The major field activity of the Bureau is Boulder Laboratories whose divisional organization is given in Section 2.02. The titles of these divisions are descriptive of the functions performed.

.02. In addition several scientific divisions have field establishments. For the most part, these contribute to the specific programs and projects of their corresponding headquarters divisions rather than perform special services for the public. Activities include concreting materials testing, lamp inspection, development and application of visual range meters, development of uniform standards for railway freight car weighing, and radio frequency and propagation testing and monitoring.

Effective date: November 1, 1955.

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 55-9466; Filed, Nov. 25, 1955; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11392, 11393; FCC 55 M-967]

BARTLETT AND REED MANAGEMENT AND BLACKHILLS VIDEO CO.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Bartlett and Reed Management, Rapid City, South Dakota; Docket No. 11392, File Nos. 557/558/559/560/561/562/563-C1-P-55; and Blackhills Video Company, Rapid City, South Dakota, Docket No. 11393, File Nos. 1096/1097/1098/1099/1100/1101/1102/1103/1104/1105-C1-P-55; for construction permits for radio relay facilities.

The Hearing Examiner having under consideration an informal request that a further pre-hearing conference be held December 5, 1955, in lieu of the evidentiary hearing presently scheduled; and

It appearing that since the last hearing conference the Commission has granted the petition of the American Telephone and Telegraph Company to intervene;

It is ordered, This the 17th day of November 1955, that a further prehearing conference pursuant to the provisions of Section 1.813 of the Commission's Rules will be held on December 5, 1955, in lieu of the evidentiary hearing now scheduled.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9487; Filed, Nov. 25, 1955; 8:48 a. m.]

[Docket No. 11421, 11422; FCC 55M-974]

HENRYETTA RADIO CO. AND HENRYETTA BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of J. Leland Gourley, Lloyd W Simpson and Charles E. Engleman, d/b as Henryetta Radio Company, Henryetta, Oklahoma, Docket No. 11421, File No. BP-9308; W D. Miller, Glyndal D. Roberts and Donaghey G. Sammons, d/b as Henryetta Broadcasting Company, Henryetta, Oklahoma, Docket No. 11422, File No. BP-9627 for construction permits.

It appearing from facts developed at a pre-hearing conference held today (full facts concerning which will be set forth in detail in a forthcoming Memorandum Opinion and Order) that there is good cause for extending the hearing date now set; and all participants having consented to the extension set forth below;

It is ordered, This 18th day of November 1955, on the Hearing Examiner's own motion that hearing in the above-entitled proceeding be continued from 10:00 a. m. December 2, 1955, to 10:00 a. m. January 3, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9488; Filed, Nov. 25, 1955; 8:48 a. m.]

[Docket Nos. 11455—11458; FCC 55M-971]

ROBERT E. BOLLINGER ET AL.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Robert E. Bollinger, Portland, Oregon; Docket No. 11455, File No. BP-9320 Mercury Broadcasting Co., Inc. (KLIQ), Portland, Oregon, Docket No. 11456, File No. BP-9400; Docket No. 11457, File No. BR-2266; Albert L. Capstaff & Quenton Cox a partnership, d/b as Capstaff Broadcasting Co., Oreg. Ltd., Portland, Oregon, Docket No. 11458, File No. BP-9585; for construction permits and renewal of license.

On September 22, 1955, the hearing conference in the above-entitled proceeding was continued until 14 days after the Commission has acted upon the petition of Robert E. Bollinger to dismiss the application of Mercury Broadcasting Co., Inc. (KLIQ), and the petition of Mercury Broadcasting Co., Inc. (KLIQ), to accept its late appearance; and

It appearing that the Commission by order dated November 16, 1955, granted the request of Robert E. Bollinger to withdraw its petition to dismiss the application of Mercury Broadcasting Co., Inc. (KLIQ) and on the same date granted the petition of Mercury Broadcasting Co., Inc. (KLIQ), to accept late appearance;

It is ordered, This the 18th day of November 1955, that pursuant to the provisions of section 1.813 of the Commission's rules, all parties in this proceeding are directed to appear either in person or by attorney at the further prehearing conference which will begin at 10:00 A. M., Tuesday, December 6, 1955, in the offices of the Commission in Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9489; Filed, Nov. 25, 1955; 8:48 a. m.]

[Docket Nos. 11505, 11506; FCC 55M-969]

HI-LINE BROADCASTING CO. AND WOLF POINT BROADCASTING CO.

ORDER AFTER PREHEARING CONFERENCE AND CONTINUANCE

In re applications of Mike M. Vukelich, E. E. Krebsbach and Robert E. Coffey, d/b as Hi-Line Broadcasting Company, Wolf Point, Montana, Docket No. 11505, File No. BP-9720; Charles L. Scofield and

Willard L. Holter, d/b as The Wolf Point Broadcasting Company, Wolf Point, Montana, Docket No. 11506, File No. BP-9843; for construction permits.

1. A prehearing conference, under Rules 1.841 and 1.813, was held on November 16. The official transcript of the conference is incorporated by reference.

2. Among other things, the scope of the parties' written cases under Rule 1.841 was discussed, and it was agreed that each party need only set forth in its affirmative written case the attributes of its own upon which it relies (see Tr. 13)

3. Because of the shortness of time and to accommodate the convenience of counsel, the hearing now scheduled for December 15, 1955, is continued to Wednesday, January 11, 1956, at 10:00 a. m. in the offices of the Commission, Washington, D. C. The date for the exchange of the written case under Rule 1.841 is set at Thursday, December 22, 1955, and the date for the further conference contemplated by Rule 1.841 at Tuesday, January 3, 1956.

It is so ordered, This 18th day of November 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9490; Filed, Nov. 25, 1955; 8:48 a. m.]

[Docket No. 11518; FCC 55M-973]

AMERICAN TELEPHONE AND TELEGRAPH CO.

ORDER AFTER PREHEARING CONFERENCE

In the matter of American Telephone and Telegraph Company, charges classifications, regulations and practices for and in connection with multiple private line services and channels.

Appearances: Mr. Ernest D. North, Mr. John T. Quisenberry, and Mr. Charles F Martin on behalf of the respondents American Telephone and Telegraph Company and the twenty-three associated Bell System telephone companies; [1] Mr. John H. Waters, Mr. William Wendt, Mr. William E. Seward, and Mr. Jack Werner on behalf of the intervenor Western Union Telegraph Company; Mr. Donald C. Beelar and Mr. Kelley E. Griffith on behalf of the intervenor Aeronautical Radio, Inc., and Mr. Bernard Strassburg and Mr. William M. Lesher on behalf of the Chief, Common Carrier Bureau, Federal Communications Commission, The Harrison Telephone Company of Ohio, a named party respondent, was not represented.

1. Pursuant to Hearing Examiner's order dated November 1, 1955, a prehearing conference in this proceeding was held on November 10, 1955, in which the parties participated by counsel as indicated in the statement of appearances above. The parties as fully identified above will be refered to hereinafter for convenience as respectively Telephone Companies, Western Union, AerInc., and Bureau. Various matters of procedure and substance were discussed as shown by Transcript Volume 1 (pages 1-86) which is made a part of the record herein. The matters upon which significant agreements and determinations were reached are hereinafter summarized.

2. After some discussion on the record, followed by a conference among all counsel off the record, it was agreed and stipulated on the record that for the purposes of this proceeding the numbered paragraph 4 in the third ordering clause of the Commission's order dated October 19, 1955, released October 21, and which is as follows:

4. The effect of the new tariff schedules on competition in the field of private line teletypewriter service and channels.

has reference to and includes all private line telegraph services and channels furnished by both Western Union and Telephone Companies. It was also agreed by all counsel that the foregoing clarifying statement does not constitute an enlargement or change of the scope of the issues as stated in the Commission's order, and consequently that the issue or matter for investigation is thus sufficiently redefined and clarified without any necessity for further action by the Commission.

3. Bureau counsel read into the record a statement, and provided all parties with a copy thereof, outlining in more detail than is specified in the Commission's order the matters and subjects to be covered by the evidence which is to be sought in this proceeding. (The statement appears in the transcript at pages 17-21.) Telephone Companies agreed in general that they would cooperate to provide the most complete record possible for consideration by the Commission, and that evidence along the lines suggested in Bureau's statement would be offered to the extent that the information contemplated thereby reasonably can be made available; some types of requested information may not be susceptible of production from the records of Telephone Companies, and the preparation of some other requested information will require more time than is available prior to the scheduled hearing date of November 21, 1955. The hearing date was postponed by order made on the record as hereinafter noted. Moreover, counsel, for all parties will participate in informal conferences upon these and other matters in order to derive specific agreements, stipulations, and statements to be submitted for the record at the commencement of the hearing. Accordingly, no further definition of the issues in these respects was undertaken or achieved at the prehearing conference.

4. The prehearing conference was recessed for three hours at noontime in order that counsel for all parties might confer informally upon various matters that had arisen during the morning session of the formal conference. Upon reconvening certain agreements, in addition to those above set out, were stated on the record and concurred in by counsel for all parties; the agreements are:

a. The direct evidence for all parties will consist of oral testimony and written exhibits, but the witnesses may testify from previously prepared memoranda; no prepared written testimony will be previously exchanged among the parties or offered in direct evidence. Written exhibits to be offered in evidence will be notified to all other parties by copies thereof in advance of the hearing to the extent that such exhibits become available for prior exchange. Objections to exhibits offered at the hearing will not be ruled upon until cross-examination of th identifying witnesses has been completed.

b. Telephone Companies will proceed first at the hearing to offer in evidence the direct affirmative testimony and exhibits deemed to be responsive to the matters under inquiry. A recess in the hearing will then be ordered to allow other parties an opportunity to prepare for cross-examination; the duration of such recess will be determined in the light of the needs of the parties and in consideration of the mandate that this proceeding shall receive expedited consideration.

c. Cross-examination of Telephone Companies' witnesses shall be conducted first by AerInc., second by Western Union, third by Bureau. Cross-examination shall be completed before redirect examination. Further oral examinations shall proceed in the same sequences.

d. After examination of the witnesses offered by Telephone Companies, and after an appropriate recess period, AerInc., Western Union, and Bureau respectively will offer such testimony and exhibit evidence as they intend to present; cross-examination upon each party's direct evidence will be completed as it is offered and before presentation by the following party appropriate recess periods for preparation of cross-examination will be allowed:

e. Objections to testimony or exhibits shall be explicitly stated with the reasons therefor and each objection so stated and considered will be ruled upon by statement made on the record.

f. Exhibits to be offered in evidence shall be identified by consecutive numbers for each party beginning respectively at: Number 1 for Telephone Companies; Number 101 for AerInc.,

[1] The associated Bell System telephone companies who are parties to this proceeding and who are represented as above stated are: Bell Telephone Company of Nevada, Bell Telephone Company of Pennsylvania, The Cincinnati & Suburban Bell Telephone Company, Citizens Telephone Company, Inc., Diamond State Telephone Company, Illinois Bell Telephone Company, Indiana, Indiana Bell Telephone Company, Michigan Bell Telephone Company, Mountain States Telephone & Telegraph Company, New England Telephone Company, New Jersey Bell Telephone Company, New York Telephone Company, Northwestern Bell Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone & Telegraph Company, Southern Bell Telephone & Telegraph Company, The Southwestern Bell Telephone Company, Wisconsin Telephone Company, The Chesapeake & Potomac Telephone Company, The Chesapeake & Potomac Telephone Company of Baltimore City, The Chesapeake & Potomac Telephone Company of Virginia, The Chesapeake & Potomac Telephone Company of West Virginia, and Southern New England Telephone Company.

Number 201 for Western Union; and Number 301 for Bureau.[2]

g. The hearing of evidence in this proceeding shall be commenced at 10:00 a. m. on Tuesday, December 6, 1955, at the offices of the Commission in Washington, D. C.

5. Discussions were had concerning the evidentiary showing to be made by the Telephone Companies upon certain construction and termination costs and charges; further clarification of these matters was left for development in the informal conferences among counsel to be conducted by them prior to the convening of the hearing. Prehearing discussions also touched upon the suspension of the tariffs under investigation which has been ordered to be effective until February 1, 1956; no action could be or was taken at the prehearing conference, this being a matter within the jurisdiction of the Commission.

6. It is expected that further informal conferences will develop agreements and stipulations to be submitted for the record at the hearing. Such agreements will include various documentary and other facts susceptible of stipulation in lieu of proof, and concise statements of matters of public record to be made a part of the evidentiary record through official notice. At the commencement of the hearing any party by informal statement on the record may request clarification or modification of the provisions of this order, and ruling thereon will then be made.

It is ordered, This 18th day of November 1955, that, unless modified as hereinabove permitted or pursuant to the Commission's rules, the foregoing statements and provisions to the extent of their applicability shall govern the conduct of the hearing in this proceeding.

Released: November 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9491; Filed, Nov. 25, 1955; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-5259]

TENNESSEE GAS TRANSMISSION CO.

NOTICE OF ORDER IN REGARD TO PROPOSED TARIFF SHEETS

NOVEMBER 18, 1955.

Notice is hereby given that on November 4, 1955, the Federal Power Commission issued its order adopted November 2, 1955, allowing certain proposed tariff sheets to become effective subject to refund and allowing other sheets to become effective in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9471; Filed, Nov. 25, 1955; 8:46 a. m.]

[2] This departs from the assignments indicated at pages 83 and 84 of the transcript; the purpose is to maintain the chronology of numbering with the order of presentation of evidence by the parties.

[Docket No. G-5939]

POINT CORP.

NOTICE OF ORDER DISMISSING APPLICATION FOR LACK OF JURISDICTION

NOVEMBER 18, 1955.

Notice is hereby given that on November 7, 1955, the Federal Power Commission issued its order adopted November 2, 1955, dismissing application for lack of jurisdiction in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9472; Filed, Nov. 25, 1955; 8:46 a. m.]

[Docket No. G-8884]

OLIN GAS TRANSMISSION CORP. AND HOPE PRODUCING CO.

NOTICE OF ORDER PERMITTING WITHDRAWAL OF APPLICATION FOR ABANDONMENT OF NATURAL GAS SERVICE

NOVEMBER 18, 1955.

Notice is hereby given that on November 7, 1955, the Federal Power Commission issued its order adopted November 2, 1955, permitting withdrawal of application for abandonment of natural gas service in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9473; Filed, Nov. 25, 1955; 8:46 a. m.]

[Docket No. G-3175]

PHILLIPS PETROLEUM CO.

NOTICE OF ORDER MAKING EFFECTIVE PROPOSED RATE CHANGES

NOVEMBER 18, 1955.

Notice is hereby given that on November 8, 1955, the Federal Power Commission issued its order adopted November 2, 1955, making effective proposed rate changes upon filing of undertaking to assure refund of excess charges in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9475; Filed, Nov. 25, 1955; 8:46 a. m.]

[Docket No. G-8960]

SUNRAY MID-CONTINENT OIL CO.

NOTICE OF ORDER MAKING EFFECTIVE PROPOSED RATE CHANGES

NOVEMBER 18, 1955.

Notice is hereby given that on November 9, 1955, the Federal Power Commission issued its order adopted November 2, 1955, making effective proposed rate changes upon filing of undertaking to assure refund of excess charges in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9476; Filed, Nov. 25, 1955; 8:46 a. m.]

[Docket No. G-9309]

CITIES SERVICE GAS PRODUCING CO.

NOTICE OF ORDER MAKING EFFECTIVE PROPOSED RATE CHANGES

NOVEMBER 18, 1955.

Notice is hereby given that on November 7, 1955, the Federal Power Commission issued its order adopted November 2, 1955, making effective proposed rate changes upon filing of undertaking to assure refund of excess charges in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9477; Filed, Nov. 25, 1955; 8:46 a. m.]

[Project No. 2114]

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASH.

NOTICE OF ORDER ISSUING LICENSE (MAJOR)

NOVEMBER 18, 1955.

Notice is hereby given that on November 4, 1955, the Federal Power Commission issued its order adopted November 4, 1955, issuing license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9478; Filed, Nov. 25, 1955; 8:47 a. m.]

[Docket No. G-6508]

TEXAS EASTERN TRANSMISSION CORP. AND TRUNKLINE GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 21, 1955.

Take notice that, on November 30, 1954, Texas Eastern Transmission Corporation (Texas Eastern), a Delaware corporation with its principal place of business in Shreveport, Louisiana, and Trunkline Gas Company (Trunkline), a Delaware corporation with its principal place of business in Houston Texas, filed a joint application, pursuant to section 7 (c) of the Natural Gas Act, authorizing the exchange of natural gas between them, and the construction and operation of facilities required to effect the exchange.

Texas Eastern proposes to install, maintain and operate an 8-inch reversible meter setting on its transmission pipeline in Wharton County, Texas, at the point of interconnection where Trunkline's existing 24-inch transmission line crosses Texas Eastern's existing 16-inch Provident City line. The estimated maximum capacity of the proposed interconnection in Wharton County is 75,000 Mcf per day.

Trunkline proposes to construct, maintain and operate an 8-inch reversible meter setting on its existing 26-inch transmission line at the point of interconnection of that line with Texas Eastern's existing 24-inch transmission line in Williamson County, Illinois. The estimated maximum capacity of the pro-

posed interconnection in Williamson County is approximately 75,000 Mcf per day from the facilities of Trunkline to Texas Eastern, and approximately 64,000 Mcf per day from Texas Eastern to Trunkline.

Any deliveries of gas at either of these two points of interconnection are to be returned in like quantities at the same point of interconnection at which the deliveries were received, within 60 days from the date of initial delivery. The proposed exchange will not affect the gas supply of Texas Eastern or Trunkline and deliveries are to be made only when they can be effected without impairment of Texas Eastern's or Trunkline's obligations to others.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 20, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 7, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-9479; Filed, Nov. 25, 1955; 8:47 a. m.]

[Docket No. G-8901]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 21, 1955.

Take notice that Texas Eastern Transmission Corporation (Applicant) a Delaware corporation having its principal place of business in Shreveport, Louisiana, filed on May 13, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing emergency deliveries to existing customers and persons interconnected with its system.

Applicant proposes to deliver gas under its emergency service rate schedules from time to time as required by its connected customers in order to prevent interruption or serious curtailment of service for temporary periods. Applicant's proposal would not require the construction of any new facilities.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 20, 1955, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 7, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-9480; Filed, Nov. 25, 1955; 8:47 a. m.]

[Docket No. G-9295]

NATIONAL GAS & OIL CORP.

NOTICE OF DECLARATION OF EXEMPTION

NOVEMBER 18, 1955.

Notice is hereby given that on November 7, 1955, the Federal Power Commission issued its declaration of exemption from the provisions of the Natural Gas Act adopted November 2, 1955, in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-9474; Filed, Nov. 25, 1955; 8:46 a. m.]

FEDERAL CIVIL DEFENSE ADMINISTRATION

[FCDA Delegation 4]

SECRETARY OF THE INTERIOR

DELEGATION OF AUTHORITY WITH RESPECT TO NATIONAL CIVIL-DEFENSE PROGRAM

By virtue of the authority vested in me by section 201 (b) of the Federal Civil Defense Act of 1950 (64 Stat. 1248), and in the interest of the development of the national civil-defense program contemplated by that act, including action in support of the States during a civil-defense emergency, I hereby delegate the following-described responsibilities to the Secretary of the Interior, which are in addition to the responsibilities delegated to him by FCDA Delegation No. 3, approved by the President August 13, 1955 (20 F. R. 5957), Plan a national program, provide technical guidance to the States and direct Federal activities concerned with the emergency restoration of electric utility service to attacked areas and provision of adequate electric utility service to support areas.

In carrying out his responsibilities hereunder, the Secretary of the Interior shall be governed by the general provisions contained in the said FCDA Delegation No. 3.

The provisions hereof shall become effective upon the date of approval by the President.

Dated: November 7, 1955.

VAL PETERSON, *Federal Civil Defense Administrator.*

Approved: November 22, 1955.

DWIGHT D. EISENHOWER, *The White House.*

[F. R. Doc. 55-9529; Filed, Nov. 23, 1955; 4:11 p. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

FEDERAL HOUSING COMMISSIONER ET AL.

DELEGATION OF AUTHORITY WITH RESPECT TO PURCHASE OF SURETY BONDS TO COVER CIVILIAN OFFICERS AND EMPLOYEES

Each of the following officers within the Housing and Home Finance Agency:

Officer and Constituent Agency or Office

Federal Housing Commissioner; Federal Housing Administration.

Public Housing Commissioner: Public Housing Administration.

President, Federal National Mortgage Association; Federal National Mortgage Association.

Assistant Administrator (Administration), Office of the Administrator; Office of the Administrator, including Regional Offices of the Housing and Home Finance Agency.

is hereby authorized:

1. To executed the powers and functions vested in the Housing and Home Finance Administrator (as head of an independent establishment) under the provisions of Public Law 323, 84th Cong. (69 Stat. 618, 6 U. S. C. 14) and regulations issued pursuant thereto, with respect to the purchase of blanket, position schedule, or other types of surety bonds covering civilian officers and employees under the jurisdiction of such designated officer, as shown above, who are required by law or administrative ruling to be bonded.

2. To redelegate any of the authority herein delegated to one or more officers or employees under the jurisdiction of such designated officer as shown above.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954; 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C. 1952 ed. 1701c)

Effective as of the 26th day of November 1955.

ALBERT M. COLE,
Housing and Home Finance Administrator

[F. R. Doc. 55-9493; Filed, Nov. 25, 1955; 8:49 a. m.]

REGIONAL DIRECTOR OF URBAN RENEWAL, REGION V AND PROJECT REPRESENTATIVE, REGION V (FORT WORTH, TEXAS)

REDELEGATION OF AUTHORITY TO APPROVE CERTAIN CONTRACTS WITH RESPECT TO SLUM CLEARANCE AND URBAN RENEWAL PROGRAM

The Regional Director of Urban Renewal, Region V (Fort Worth, Texas) is hereby authorized, and each Project Representative in such Region is hereby authorized, to take the following action within such Region with respect to the program authorized under Title I of the Housing Act of 1949, as amended (63 Stat. 414-421, as amended, 42 U. S. C. 1450-1460) and under Section 312 of the Housing Act of 1954 (68 Stat. 629)

Approve contracts between local public agencies and third parties.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C. 1952 ed. 1701c; Delegation of Authority effective December 23, 1954 (20 F. R. 428-9, 1/19/55), as amended effective June 17, 1955 (20 F. R. 4275, 6/17/55).)

Effective as of the 14th day of November 1955.

W. H. SINDT,
Acting Regional Administrator Region V

[F. R. Doc. 55-9494; Filed, Nov. 25, 1955; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 22, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31341. *Hoisting machinery from Iowa to Kansas City, Mo.* Filed by The Chicago and North Western Railway Company for and on behalf of interested rail carriers. Rates on hoisting machinery and parts thereof, set up or knocked down, straight or mixed carloads from Cedar Rapids and Crandic Iowa to Kansas City, Mo.

Grounds for relief: Circuity.

Tariff: Supplement 25 to Chicago & North Western Railway tariff I. C. C. No. 11215.

FSA No. 31342: *Fertilizer between Official Territory and the South.* Filed by C. W. Boin, Agent, for interested rail carriers. Rates on fertilizer and fertilizer materials, carloads between points in official territory and points in southern territory.

Grounds for relief: Carrier competition, circuity, grouping, and market competition.

Tariffs: Agent Boin's tariff I. C. C. No. A-1075. Supplement 59 to Agent Spaninger's I. C. C. 1366.

FSA No. 31343: *Iron or steel billets from Huntington, W Va. to Beaumont, Tex.* Filed by F C. Kratzmeir, Agent, for interested rail carriers. Rates on iron or steel billets, other than copper clad, carloads from Huntington, W. Va., to Beaumont, Tex.

Grounds for relief: Barge competition.

Tariff: Supplement 19 to Agent Kratzmeir's I. C. C. 4170.

FSA No. 31344: *Trailer-on-flat car service—N. Y., N. H. & H. R. R. Co.* Filed by The New York, New Haven and Hartford Railroad Company, for interested rail carriers. Rates on various commodities loaded in or on trailers transported on flat cars, between points in Massachusetts and Rhode Island, on the one hand, and points in Illinois, Indiana, Michigan, Missouri, Ohio, and Pennsylvania, on the other.

Grounds for relief: Motor truck competition.

Tariff: New York, New Haven & Hartford Railroad tariff I. C. C. F-4383.

FSA No. 31345: *Lumber from the South to Western Trunk Line Territory.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on lumber and related articles, carloads from points in southern territory to points in western trunk line territory.

Grounds for relief: Carrier competition and circuity; additional routes.

Tariff: Supplement 130 to Agent Spaninger's I. C. C. 1101.

FSA No. 31346: *Aluminum from Southwest to Illinois; Wisconsin, and Official Territory.* Filed by F C. Kratzmeir, Agent, for interested rail carriers. Rates on aluminum billets, blooms, ingots, pigs, or slabs, carloads from points in Arkansas and Texas to points in Illinois, Wisconsin, and Official territory.

Grounds for relief: Carrier competition, circuity, grouping, and rates constructed on basis of a distance scale.

Tariff: Agent Kratzmeir's tariff I. C. C. No. 4176.

FSA No. 31347: *Fertilizer solution from Selma, Mo.* Filed by F C. Kratzmeir, Agent, for interested rail carriers. Rates on nitrogen fertilizer solution and fertilizer ammoniating solution, tank-car loads from Selma, Mo., to points in central and Illinois Freight Association territories.

Grounds for relief: Short-line distance formula, circuity, and market competition.

Tariff: Supplement 100 to Agent Kratzmeir's I. C. C. 4112.

FSA No. 31348: *Merchandise from St. Louis to Florida and Georgia.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on various commodities in mixed carloads from St. Louis, Mo., to Yukon, Fla., and Warner Robins, Ga.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 21 to Agent Spaninger's I. C. C. 1458.

FSA No. 31349: *Sugar from the Southwest to Harrison, Ark.* Filed by F C. Kratzmeir, Agent, for interested rail carriers. Rates on sugar, beet or cane, carloads from points in Louisiana and Texas to Harrison, Ark.

Grounds for relief: Rail and truck competition.

Tariff: Supplement 14 to Agent Kratzmeir's I. C. C. No. 4088.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 55-9482; Filed, Nov. 25, 1955; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 30-144]

AMERICAN POWER & LIGHT CO.

CESSATION AS HOLDING COMPANY

NOVEMBER 21, 1955.

American Power & Light Company ("American") having filed an application with the Commission, pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935 ("act"), requesting an order that it has ceased to be a holding company; and

The Commission finding that, pursuant to a certain plan of dissolution of American (File No. 54-207), which was approved by the Commission by order dated March 31, 1953 (Holding Company Act Release No. 11797), and was approved and ordered enforced by the United States District Court for the District of Maine by order dated May 15, 1953 (Civil Action No. 731) American was dissolved on July 22, 1953; and that the remaining assets of its estate, which consist principally of cash and United States Government obligations and which do not include any outstanding voting securities of a public utility or a holding company, are now here being administered by its Trustees in Dissolution named in said plan; and that by reason of the foregoing, American has ceased to be a holding company.

Notice of the filing of said application having been duly given and no hearing having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the Act are met and that the application should be granted forthwith, subject to the condition hereinafter set forth; and

The Commission finding that, while American has ceased to be a holding company, it is necessary for the protection of investors that the Commission retain jurisdiction over American to the same extent as though it were still in all respects a registered holding company in respect of the matters over which jurisdiction was reserved in the Commission's order dated March 31, 1953, in File No. 54-207 (Holding Company Act Release No. 11797) to the extent that the matters specified therein shall not have heretofore been disposed

of, but that except for such retained jurisdiction the registration of American as a holding company should cease to be in effect:

It is ordered, Pursuant to the provisions of section 5 (d) of the act, that American has ceased to be a holding company and that, subject to the condition prescribed below, the registration of American as a holding company shall cease to be in effect: *Provided, however* That this order shall be subject to the condition, which is prescribd as necessary for the protection of investors, that the Commission shall retain jurisdiction over American in respect of any further proceedings or orders which the Commission may deem necessary or appropriate pursuant to the reservation of jurisdiction contained in the Commission's order of March 31, 1953, in File No. 54-207 (Holding Company Act Release No. 11797) in the same manner and to the same extent as though American were in all respects a registered holding company.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-9502; Filed, Nov. 25, 1955; 8:50 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 14]

KNITTED GARMENTS

INSTITUTING NOTICE OF INVESTIGATION AND SETTING HEARING

In the matter of complaint of unfair methods of competition and unfair acts in the importation of knitted garments.

Having considered the complaint under oath filed with the United States Tariff Commission on July 1, 1955, by Renee Hall, Mount Vernon, New York, and others, alleging unfair methods of competition or unfair acts in the importation of knitted garments and in the sale thereof in the United States in violation of the provisions of section 337 of the Tariff Act of 1930, and after preliminary inquiry with respect to the matters alleged in the said complaint in accordance with section 203.3 of the rules of practice and procedure of the United States Tariff Commission, the Commission, on the 28th day of October 1955, ordered:

(1) That an investigation pursuant to section 337 of the Tariff Act of 1930 in the matter of the aforementioned allegations be instituted; and

(2) That a public hearing in said investigation be held in the Hearing Room of the United States Tariff Commission, Eighth and E Streets NW., Washington, D. C., beginning at 10 a. m., e. s. t., on the 29th day of February 1956, at which hearing all parties concerned will be afforded opportunity to be present, to produce evidence, and to be heard concerning the said alleged unfair methods of competition and unfair acts.

Public notice of the receipt of the aforesaid complaint was duly issued on July 22, 1955 (20 F. R. 5378; July 28, 1955, issue of Treasury Decisions) and the said complaint has been available for inspection by interested parties since that date at the office of the Secretary, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C., and also in the New York office of the Tariff Commission located in Room 437 of the Custom House.

I hereby certify that the institution of the foregoing investigation and the hearing therein were ordered by the United States Tariff Commission on the 28th day of October 1955.

Issued: November 1, 1955.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 55-9495; Filed, Nov. 25, 1955; 8:49 a. m.]